

APPENDIX A

EXECUTIVE ORDERS **Full Text**

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Executive Order 11472
ESTABLISHING THE ENVIRONMENTAL QUALITY COUNCIL AND THE CITIZENS'
ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

May 29, 1969

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I. ENVIRONMENTAL QUALITY COUNCIL

SECTION 101. Establishment of the Council.

- (a) There is hereby established the Environmental Quality Council (hereinafter referred to as 'the Council').
- (b) The President of the United States shall preside over meetings of the Council. The Vice President shall preside in the absence of the President.
- (c) The Council shall be composed of the following members:
 - The Vice President of the United States
 - Secretary of Agriculture
 - Secretary of Commerce
 - Secretary of Health, Education and Welfare
 - Secretary of Housing and Urban Development
 - Secretary of the Interior
 - Secretary of Transportation and such other heads of departments and agencies and others as the President may from time to time direct.
- (d) Each member of the Council may designate an alternate, who shall serve as a member of the Council whenever the regular member is unable to attend any meeting of the Council.
- (e) When matters which affect the interest of Federal agencies the heads of which are not members of the Council are to be considered by the Council, the President or his representative may invite such agency heads or their alternates to participate in the deliberations of the Council.
- (f) The Director of the Bureau of the Budget, the Chairman of the Council of Economic Advisers, and the Executive Secretary of the Council for Urban Affairs or their representatives may participate in the deliberations of the Environmental Quality Council as observers.
- (g) The Science Adviser to the President shall be the Executive Secretary of the Council and shall assist the President in directing the affairs of the Council.

SECTION 102. Functions of the Council.

- (a) The Council shall advise and assist the President with respect to environmental quality matters and shall perform such other related duties as the President may from time to time prescribe. In addition thereto, the Council is directed to:
 - (1) Recommend measures to ensure that Federal policies and programs, including those for development and conservation of natural resources, take adequate account of environmental effects.
 - (2) Review the adequacy of existing systems for monitoring and predicting environmental changes so as to achieve effective coverage and efficient use of facilities and other resources.

- (3) Foster cooperation between the Federal Government, State and local governments, and private organizations in environmental programs.
- (4) Seek advancement of scientific knowledge of changes in the environment and encourage the development of technology to prevent or minimize adverse effects endanger man's health and well-being.
- (5) Stimulate public and private participation in programs and activities to protect against pollution of the Nation's air, water, and land and its living resources.
- (6) Encourage timely public disclosure by all levels of government and by private parties of plans that would affect the quality of environment.
- (7) Assure assessment of new and changing technologies for their potential effects on the environment.
- (8) Facilitate coordination among departments and agencies of the Federal Government in protecting and improving the environment.

(b) The Council shall review plans and actions of Federal agencies affecting outdoor recreation and natural beauty. The Council may conduct studies and make recommendations to the President on matters of policy in the fields of outdoor recreation and natural beauty. In carrying out the foregoing provisions of this subsection, the Council shall, as far as may be practical, advise Federal agencies with respect to the effect of their respective plans and programs on recreation and natural beauty, and may suggest to such agencies ways to accomplish the purposes of this order. For the purposes of this order, plans and programs may include, but are not limited to, those for or affecting: (1) Development, restoration, and preservation of the beauty of the countryside, urban and suburban areas, water resources, wild rivers, scenic roads, parkways and highways, (2) the protection and appropriate management of scenic or primitive areas, natural wonders, historic sites, and recreation areas, (3) the management of Federal land and water resources, including fish and wildlife, to enhance natural beauty and recreational opportunities consistent with other essential uses, (4) cooperation with the States and their local subdivisions and private organizations and individuals in areas of mutual interest, (5) interstate arrangements, including Federal participation where authorized and necessary, and (6) leadership in a nationwide recreation and beautification effort.

(c) The Council shall assist the President in preparing periodic reports to the Congress on the subjects of this order.

SECTION 103. Coordination. The Secretary of the Interior may make available to the Council for coordination of outdoor recreation the authorities and resources available to him under the Act of May 28, 1963, 77 Stat. 49; to the extent permitted by law, he may make such authorities and resources available to the Council also for promoting such coordination of other matters assigned to the Council by this order.

SECTION 104. Assistance for the Council. In compliance with provisions of applicable law, and as necessary to serve the purposes of this order, (1) the Office of Science and Technology shall provide or arrange for necessary administrative and staff services, support, and facilities for the Council, and (2) each department and agency which has membership on the Council under Section 101(c) hereof shall furnish the Council such

information and other assistance as may be available.

PART II. CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

SECTION. 201. Establishment of the Committee. There is hereby established the Citizens' Advisory Committee on Environmental Quality (hereafter referred to as 'Committee'). The Committee shall be composed of a chairman and not more than 14 other members appointed by the President. Appointments to membership on the Committee shall be for staggered terms, except that the chairman of the Committee shall serve until his successor is appointed.

SECTION 202. Functions of the Committee. The Committee shall advise the President and the Council on matters assigned to the Council by the provisions of this order.

SECTION 203. Expenses. Members of the Committee shall receive no compensation from the United States by reason of their services under this order but shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701-5708) for persons in the Government service employed intermittently.

SECTION 204. Continuity. Persons who on the date of this order are members of the Citizens' Advisory Committee on Recreation and Natural Beauty established by Executive Order No. 11278 of May 4, 1966, as amended, shall, until the expirations of their respective terms and without further action by the President, be members of the Committee established by the provisions of this Part in lieu of an equal number of the members provided for in section 201 of this order.

PART III. GENERAL PROVISIONS

SECTION 301. Construction. Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

SECTION 302. Prior bodies and orders. The President's Council on Recreation and Natural Beauty and the Citizens' Advisory Committee on Recreation and Natural Beauty are hereby terminated and the following are revoked:

- (1) Executive Order No. 11278 of May 4, 1966.
- (2) Executive Order No. 11359A of June 29, 1967.
- (3) Executive Order No. 11402 of March 29, 1968.

Richard Nixon
THE WHITE HOUSE,
May 29, 1969.
34 FR 8693, 1969 WL 9659 (Pres.)

Executive Order 11514
PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

March 5, 1970

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91-190, approved January 1, 1970), it is ordered as follows:

SECTION 1. Policy

The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

SECTION 2. Responsibilities of Federal agencies.

Consonant with Title I of the National Environmental Policy Act of 1969, hereafter referred to as the "Act", the heads of Federal agencies shall:

- (a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, State and local agencies in carrying out their activities as they affect the quality of the environment.
- (b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.
- (c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.
- (d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

- (e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.
- (f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act.
- (g) In carrying out their responsibilities under the Act and this Order, comply with the regulations issued by the Council except where such compliance would be inconsistent with statutory requirements.

SECTION 3. Responsibilities of Council on Environmental Quality.

The Council on Environmental Quality shall:

- (a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.
- (b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.
- (c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.
- (d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.
- (e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3) to determine the effectiveness of programs for protecting and enhancing environmental quality.
- (f) Coordinate Federal programs related to environmental quality.
- (g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.
- (h) Issue regulations to Federal agencies for the implementation of the procedural provisions of the Act (42 USC 4332(2)). Such regulations shall be developed after consultation with affected agencies and after such public hearings as may be appropriate. They will be designed to make the environmental impact statement process more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives. They will require impact statements to be concise, clear, and to the point, and supported by evidence that agencies have made the necessary environmental analyses. The Council shall include in its regulations procedures (1) for the early

preparation of environmental impact statements, and (2) for the referral to the Council of conflicts between agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended, and Section 309 of the Clean Air Act, as amended, for the Council's recommendation as to their prompt resolution.

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act.

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of preventing or reducing adverse effects from such technologies.

SECTION 4 Amendments of E.O. 11472.

[EDITOR'S NOTE: E.O. 11472 expired January 5, 1977.]

Richard Nixon

THE WHITE HOUSE

March 5, 1970

Executive Order 11593
PROTECTION AND ENHANCEMENT OF THE CULTURAL ENVIRONMENT

May 13, 1971

By virtue of the authority vested in me as President of the United States and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321 et seq.), the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470 et seq.), the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 et seq.), and the Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431 et seq.), it is ordered as follows:

SECTION 1. Policy.

The Federal Government shall provide leadership in preserving, restoring and maintaining the historic and cultural environment of the Nation. Agencies of the executive branch of the Government (hereinafter referred to as 'Federal agencies') shall:

- (1) administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations,
- (2) initiate measures necessary to direct their policies, plans and programs in such a way that federally owned sites, structures, and objects of historical, architectural or archaeological significance are preserved, restored and maintained for the inspiration and benefit of the people, and
- (3), in consultation with the Advisory Council on Historic Preservation (16 U.S.C. 470i), institute procedures to assure that Federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures and objects of historical, architectural or archaeological significance.

SECTION 2. Responsibilities of Federal agencies. Consonant with the provisions of the acts cited in the first paragraph of this order, the heads of Federal agencies shall:

- (a) no later than July 1, 1973, with the advice of the Secretary of the Interior, and in cooperation with the liaison officer for historic preservation for the State or territory involved, locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places.
- (b) exercise caution during the interim period until inventories and evaluations required by subsection (a) are completed to assure that any federally owned property that might qualify for nomination is not inadvertently transferred, sold, demolished or substantially altered. The agency head shall refer any questionable actions to the Secretary of the Interior for an opinion respecting the property's eligibility for inclusion on the National Register of Historic Places. The Secretary shall consult with the liaison officer for historic preservation for the State or territory involved in arriving at his opinion. Where, after a reasonable period in which to review and evaluate the property, the Secretary determines that the property is likely to meet the criteria prescribed for listing on the National Register of Historic Places, the Federal agency head shall reconsider the proposal in light of national environmental and preservation policy. Where, after such reconsideration, the Federal agency head proposes to transfer, sell, demolish or substantially alter the property he shall not act with respect to the property until the Advisory Council on Historic Preservation shall have been provided an opportunity to comment on the proposal.

(c) initiate measures to assure that where as a result of Federal action or assistance a property listed on the National Register of Historic Places is to be substantially altered or demolished, timely steps be taken to make or have made records, including measured drawings, photographs and maps, of the property, and that copy of such records then be deposited in the Library of Congress as part of the Historic American Buildings Survey or Historic American Engineering Record for future use and reference. Agencies may call on the Department of the Interior for advice and technical assistance in the completion of the above records.

(d) initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of federally owned and registered sites at professional standards prescribed by the Secretary of the Interior.

(e) submit procedures required pursuant to subsection (d) to the Secretary of the Interior and to the Advisory Council on Historic Preservation no later than January 1, 1972, and annually thereafter, for review and comment.

(f) cooperate with purchasers and transferees of a property listed on the National Register of Historic Places in the development of viable plans to use such property in a manner compatible with preservation objectives and which does not result in an unreasonable economic burden to public or private interests.

SECTION 3. Responsibilities of the Secretary of the Interior.

The Secretary of the Interior shall:

(a) encourage State and local historic preservation officials to evaluate and survey federally owned historic properties and, where appropriate, to nominate such properties for listing on the National Register of Historic Places.

(b) develop criteria and procedures to be applied by Federal agencies in the reviews and nominations required by section 2(a). Such criteria and procedures shall be developed in consultation with the affected agencies.

(c) expedite action upon nominations to the National Register of Historic Places concerning federally owned properties proposed for sale, transfer, demolition or substantial alteration.

(d) encourage State and Territorial liaison officers for historic preservation to furnish information upon request to Federal agencies regarding their properties which have been evaluated with respect to historic, architectural or archaeological significance and which as a result of such evaluations have not been found suitable for listing on the National Register of Historic Places.

(e) develop and make available to Federal agencies and State and local governments information concerning professional methods and techniques for preserving, improving, restoring and maintaining historic properties.

(f) advise Federal agencies in the evaluation, identification, preservation, improvement, restoration and maintenance of historic properties.

(g) review and evaluate the plans of transferees of surplus Federal properties transferred for historic monument purposes to assure that the historic character of such properties is preserved in rehabilitation, restoration, improvement, maintenance and repair of such properties.

(h) review and comment upon Federal agency procedures submitted pursuant to section 2(e) of this order.

Richard Nixon
THE WHITE HOUSE,
May 13, 1971.
Exec. Order No. 11593, 36 FR 8921, 1971 WL 17202 (Pres.)

Executive Order 11735
ASSIGNMENT OF FUNCTIONS UNDER SECTION 311 OF THE FEDERAL WATER
POLLUTION CONTROL ACT, AS AMENDED

August 3, 1973

By virtue of the authority vested in me by section 311 of the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500; 86 Stat. 816 at 862; 33 U.S.C. 1321), hereinafter referred to as the act, by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Administrator of the Environment Protection Agency.

The Administrator of the Environmental Protection Agency is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

- (1) the authority of the President under subsection (b)(3) and (b)(4) of section 311 of the act relating to the determination of those quantities of oil and hazardous substances the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States and those which will not be harmful;
- (2) the authority of the President under subsection (c)(2)(G) of section 311 of the act, relating to identification of dispersants and other chemicals to be used;
- (3) the authority of the President under subsection (e) of section 311 of the act, relating to determinations of imminent and substantial threat because of actual or threatened discharges of oil or hazardous substances from non- transportation-related onshore and offshore facilities, and relating to securing relief necessary to abate such actual or threatened discharges through court action; and
- (4) the authority of the President under subsection (j)(1)(C) of section 311 of the act, relating to the establishment of procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from non-transportation-related onshore and offshore facilities, and to contain such discharges.

SECTION 2. Secretary of Department in which the Coast Guard is Operating.

The Secretary of the Department in which the Coast Guard is operating is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

- (1) the authority of the President under subsection (e) of section 311 of the act, relating to determinations of imminent and substantial threat because of actual or threatened discharges of oil or hazardous substances from transportation-related onshore and offshore facilities, and relating to securing relief necessary to abate such actual or threatened discharges through court action;
- (2) the authority of the President under subsection (j)(1)(C) of section 311 of the act, relating to the establishment of procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and transportation-related onshore and offshore facilities, and to contain such discharges;

(3) the authority of the President under subsection (j)(1)(D) of section 311 of the act, relating to the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes;

(4) the authority to administer the revolving fund established pursuant to subsection (k) of section 311 of the act; and

(5) the authority under subsection (m) of section 311 of the act, relating to the boarding and inspection of vessels, the arrest of persons violating section 311, and the execution of warrants or other process pursuant to that section.

SECTION 3. Federal Maritime Commission.

The Federal Maritime Commission is designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(1) the authority of the President under subsection (p)(1) of section 311 of the act, relating to the issuance of regulations governing evidence of financial responsibility for vessels to meet liability to the United States; and

(2) the authority under subsection (p)(2) of section 311 of the act, relating to the administration of subsection (p).

SECTION 4. Council on Environmental Quality.

The Council on Environmental Quality is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority under subsection (c)(2) of section 311 of the act, providing for the preparation, publication, revision or amendment of a National Contingency Plan for the removal of oil and hazardous substance discharges (hereinafter referred to as the National Contingency Plan).

SECTION 5. Other Assignments.

(a) The head of each Federal department and agency having responsibilities under the National Contingency Plan (36 FR 16215), as now or hereafter amended, is designated and empowered to exercise, without the approval, ratification, or other action of the President, in accordance with that plan, the authority under subsection (c)(1) of section 311 of the act, relating to the removal of oil and hazardous substances discharged into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

(b) The Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, respectively, in and for the waters and areas for which each has responsibility for providing or furnishing on-scene-coordinators under the National Contingency Plan, are designated and empowered to exercise, without approval, ratification, or other action of the President, the following:

(1) the authority under subsection (c)(2)(C) of section 311 of the act, relating to the determination of major ports for establishment of emergency task forces;

(2) the authority under subsection (d) of section 311 of the act, relating to the coordination and direction of the removal or elimination of threats of pollution

hazards from discharges, or imminent discharges, of oil or hazardous substances, and the removal and destruction of vessels;

(3) the authority of the President under subsection (j)(1)(A) of section 311 of the act, relating to the establishment of methods and procedures for the removal of discharged oil and hazardous substances; and

(4) the authority of the President under subsection (j)(1)(B) of section 311 of the act, relating to the establishment of criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans.

(c) The Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating are designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under section 311(j)(2) with respect to assessing and compromising civil penalties in connection with enforcement of the respective regulations issued by each pursuant to this order.

SECTION 6. Consultation.

Authorities and functions delegated or assigned by this order shall be exercised subject to consultation with the Secretaries of departments and the heads of agencies with operating or regulatory responsibilities which may be significantly affected.

SECTION 7. Agency to Receive Notices of Discharges of Oil or Hazardous Substances.

The Coast Guard is hereby designated the 'appropriate agency' for the purpose of receiving the notice of discharge of oil or hazardous substances required by subsection (b)(5) of section 311 of the act. The Commandant of the Coast Guard shall issue regulations implementing this designation.

SECTION 8. Without derogating from any action heretofore taken thereunder, Executive Order No. 11548 of July 20, 1970, is hereby superseded.

Richard Nixon

THE WHITE HOUSE,

August 3, 1973.

Exec. Order No. 11735, 38 FR 21243, 1973 WL 20499 (Pres.)

Executive Order 11987
EXOTIC ORGANISMS

May 24, 1977

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the purposes and policies of the Lacey Act (18 U.S.C. 42) and the National Environmental Policy Act of 1969, as amended (42 USC 4321 et seq.), it is hereby ordered as follows:

SECTION 1. As used in this Order:

- (a) "United States" means all of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.
- (b) "Introduction" means the release, escape, or establishment of an exotic species into a natural ecosystem.
- (c) "Exotic species" means all species of plants and animals not naturally occurring, either presently or historically, in any ecosystem of the United States.
- (d) "Native species" means all species of plants and animals naturally occurring, either presently or historically, in any ecosystem of the United States.

SECTION 2.

- (a) Executive agencies shall, to the extent permitted by law, restrict the introduction of exotic species into the natural ecosystems on lands and waters which they own, lease, or hold for purposes of administration; and, shall encourage the States, local governments, and private citizens to prevent the introduction of exotic species into natural ecosystems of the United States.
- (b) Executive agencies, to the extent they have been authorized by statute to restrict the importation of exotic species, shall restrict the introduction of exotic species into any natural ecosystem of the United States.
- (c) Executive agencies shall, to the extent permitted by law, restrict the use of Federal funds, programs, or authorities used to export native species for the purpose of introducing such species into ecosystems outside the United States where they do not naturally occur.
- (d) This Order does not apply to the introduction of any exotic species, or the export of any native species, if the Secretary of Agriculture or the Secretary of the Interior finds that such introduction or exportation will not have an adverse effect on natural ecosystems.

SECTION 3.

The Secretary of the Interior, in consultation with the Secretary of Agriculture and the heads of other

appropriate agencies, shall develop and implement, by rule or regulation, a system to standardize and simplify the requirements, procedures and other activities appropriate for implementing the provisions of this Order. The Secretary of the Interior shall ensure that such rules or regulations are in accord with the performance by other agencies of those functions vested by law, including this Order, in such agencies.

Jimmy Carter

THE WHITE HOUSE

May 24, 1977

42 FR 26949, 3 CFR, 1977 Comp., p. 116

Executive Order 11988
FLOODPLAIN MANAGEMENT

May 24, 1977

[EDITOR'S NOTE: Executive Order 12148 --Federal Emergency Management, July 20, 1979, substituted "Director of the Federal Emergency Management Agency" for "Federal Insurance Administration" in Section 2(d).]

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 USC 4321 et seq.), the National Flood Insurance Act of 1968, as amended (42 USC 4001 et seq.), and the Flood Disaster Protection Act of 1973 (Public Law 93-234, 87 Stat. 975), in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, it is hereby ordered as follows:

SECTION 1

Each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

SECTION 2

In carrying out the activities described in Section 1 of this Order, each agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of this Order, as follows:

(a)(1) Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain -- for major Federal actions significantly affecting the quality of the human environment, the evaluation required below will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act. This determination shall be made according to a Department of Housing and Urban Development (HUD) floodplain map or a more detailed map of an area, if available. If such maps are not available, the agency shall make a determination of the location of the floodplain based on the best available information. The Water Resources Council shall issue guidance on this information not later than October 1, 1977.

(2) If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in this Order requires siting in a floodplain, the agency shall, prior to taking action, (i) design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations issued in accord with Section 2(d) of this Order, and (ii) prepare and circulate a notice containing an explanation of why the action is proposed

to be located in the floodplain.

(3) For programs subject to the Office of Management and Budget Circular A-95, the agency shall send the notice, not to exceed three pages in length including a location map, to the state and area wide A-95 clearinghouses for the geographic areas affected. The notice shall include: (i) the reasons why the action is proposed to be located in a floodplain; (ii) a statement indicating whether the action conforms to applicable state or local floodplain protection standards and (iii) a list of the alternatives considered. Agencies shall endeavor to allow a brief comment period prior to taking any action.

(4) Each agency shall also provide opportunity for early public review of any plans or proposals for actions in floodplains, in accordance with Section 2(b) of Executive Order No. 11 514, as amended, including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended.

(b) Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in a floodplain, whether the proposed action is in accord with this Order.

(c) Each agency shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved. Agencies shall include adequate provision for the evaluation and consideration of flood hazards in the regulations and operating procedures for the licenses, permits, loan or grants-in-aid programs that they administer. Agencies shall also encourage and provide appropriate guidance to applicants to evaluate the effects of their proposals in floodplains prior to submitting applications for Federal licenses, permits, loans or grants.

(d) As allowed by law, each agency shall issue or amend existing regulations and procedures within one year to comply with this Order. These procedures shall incorporate the Unified National Program for Floodplain Management of the Water Resources Council, and shall explain the means that the agency will employ to pursue the nonhazardous use of riverine, coastal and other floodplains in connection with the activities under its authority. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order. Agencies shall prepare their procedures in consultation with the Water Resources Council, the Director of the Federal Emergency Management Agency, and the Council on Environmental Quality, and shall update such procedures as necessary.

SECTION 3

In addition to the requirements of Section 2, agencies with responsibilities for Federal real property and facilities shall take the following measures:

(a) The regulations and procedures established under Section 2(d) of this Order shall, at a minimum, require the construction of Federal structures and facilities to be in accordance with the standards and criteria and to be consistent with the intent of those promulgated under the National Flood Insurance Program. They shall deviate only to the extent that the standards of the Flood Insurance Program are demonstrably inappropriate for a given type of structure or facility.

(b) If, after compliance with the requirements of this Order, new construction of structures or facilities are to be located in a floodplain, accepted flood proofing and other flood protection measures shall be applied to new construction or rehabilitation. To achieve flood protection, agencies shall, wherever practicable, elevate structures above the base flood level rather than filling in land.

(c) If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible agency shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

(d) When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the Federal agency shall (1) reference in the conveyance those uses that are restricted under identified Federal, State or local floodplain regulations; and (2) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or (3) withhold such properties from conveyance.

SECTION 4

In addition to any responsibilities under this Order and Sections 202 and 205 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4106 and 4128), agencies which guarantee, approve, regulate, or insure any financial transaction which is related to an area located in a floodplain shall, prior to completing action on such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the floodplain.

SECTION 5

The head of each agency shall submit a report to the Council on Environmental Quality and to the Water Resources Council on June 30, 1978, regarding the status of their procedures and the impact of this Order on the agency's operations. Thereafter, the Water Resources Council shall periodically evaluate agency procedures and their effectiveness.

SECTION 6

As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting floodplains.

(b) The term "base flood" shall mean that flood which has a one percent or greater chance of occurrence in any given year.

(c) The term "floodplain" shall mean the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year.

SECTION 7

Executive Order No. 11296 of August 10, 1966, is hereby revoked. All actions, procedures, and issuances taken under that Order and still in effect shall remain in effect until modified by appropriate authority under the terms of this Order.

SECTION 8

Nothing in this Order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

SECTION 9

To the extent the provisions of Section 2(a) of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended.

Jimmy Carter
THE WHITE HOUSE
May 24, 1977

42 FR 26951, 3 CFR, 1977 Comp., p. 117; Amended by Executive Order 12148, July 20, 1979; 44 FR 43239, 3 CFR, 1979 Comp., p. 412

Executive Order 11990
PROTECTION OF WETLANDS

May 24, 1977

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 USC 4321 et seq.), in order to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative, it is hereby ordered as follows:

SECTION 1

(a) Each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

(b) This Order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property.

SECTION 2

(1) In furtherance of Section 101(b)(3) of the National Environmental Policy Act of 1969 (42 USC 4331(b)(3)) to improve and coordinate Federal plans, functions, programs and resources to the end that the Nation may attain the widest range of beneficial uses of the environment without degradation and risk to health or safety, each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

(b) Each agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands, in accordance with Section 2(b) of Executive Order No. 11514, as amended, including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended.

SECTION 3

Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in wetlands, whether the proposed action is in accord with this Order.

SECTION 4

When Federally-owned wetlands or portion wetlands are proposed for lease, easement, right-of or disposal to

non-Federal public or private parties Federal agency shall (a) reference in the conveyance those uses that are restricted under identified Federal, State or local wetlands regulations; and (b) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor, except where prohibited by law; or (c) withhold such properties from disposal.

SECTION 5

In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

- (a) public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;
- (b) maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and
- (c) other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

SECTION 6

As allowed by law, agencies shall issue or amend their existing procedures in order to comply with this Order. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order.

SECTION 7

As used in this Order:

- (a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting wetlands.
- (b) The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of this Order.
- (c) The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

SECTION 8

This Order does not apply to projects presently under construction, or to projects for which all of the funds have been appropriated through Fiscal Year 1977, or to projects and programs for which a draft or final environmental impact statement will be filed prior to October 1, 1977. The provisions of Section 2 of this Order shall be implemented by each agency not later than October 1, 1977.

SECTION 9

Nothing in this Order shall apply to assistance provided for emergency work, essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

SECTION 10.

To the extent the provisions of Sections 2 and 5 of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended.

Jimmy Carter

THE WHITE HOUSE

May 24, 1977

42 FR 26961, 3 CFR, 1977 Comp., p. 121

Executive Order 11991
RELATING TO PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

May 24, 1977

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the purpose and policy of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4371 et seq.), and Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), it is hereby ordered as follows:

SECTION 1. Subsection (h) of Section 3 (relating to responsibilities of the Council on Environmental Quality) of Executive Order No. 11514, as amended, is revised to read as follows:

(h) Issue regulations to Federal agencies for the implementation of the procedural provisions of the Act (42 U.S.C. 4332(2)). Such regulations shall be developed after consultation with affected agencies and after such public hearings as may be appropriate. They will be designed to make the environmental impact statement process more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives. They will require impact statements to be concise, clear, and to the point, and supported by evidence that agencies have made the necessary environmental analyses. The Council shall include in its regulations procedures (1) for the early preparation of environmental impact statements, and (2) for the referral to the Council of conflicts between agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended, and Section 309 of the Clean Air Act, as amended, for the Council's recommendation as to their prompt resolution.'

SECTION 2. The following new subsection is added to Section 2 (relating to responsibilities of Federal agencies) of Executive Order No. 11514, as amended:

(g) In carrying out their responsibilities under the Act and this Order, comply with the regulations issued by the Council except where such compliance would be inconsistent with statutory requirements.

Jimmy Carter
THE WHITE HOUSE,
May 24, 1977.
Exec. Order No. 11991, 42 FR 26967, 1977 WL 23622 (Pres.)

Executive Order 12088
FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS
(Amended by Executive Order 12580)

October 13, 1978; January 23, 1987

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 22 of the Toxic Substances Control Act (15 USC 2621), Section 313 of the Federal Water Pollution Control Act, as amended (33 USC 1323), Section 1447 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 USC 300j-6), Section 118 of the Clean Air Act, as amended (42 USC 7418(b)), Section 4 of the Noise Control Act of 1972 (42 USC 4903), Section 6001 of the Solid Waste Disposal Act, as amended (42 USC 6961), and Section 301 of Title 3 of the United States Code, and to ensure Federal compliance with applicable pollution control standards, it is hereby ordered as follows:

1-1. Applicability of Pollution Control Standards.

1-101. The head of each Executive agency is responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency.

1-102. The head of each Executive agency is responsible for compliance with applicable pollution control standards, including those established pursuant to, but not limited to, the following:

- (a) Toxic Substances Control Act (15 USC 2601 et seq.).
- (b) Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.).
- (c) Public Health Service Act, as amended by the Safe Drinking Water Act (42 USC 300f et seq.).
- (d) Clean Air Act, as amended (42 USC 7401 et seq.).
- (e) Noise Control Act of 1972 (42 USC 4901 et seq.).
- (f) Solid Waste Disposal Act, as amended (42 USC 6901 et seq.).
- (g) Radiation guidance pursuant to Section 274(h) of the Atomic Energy Act of 1954, as amended (42 USC 2021(h); see also, the Radiation Protection Guidance to Federal Agencies for Diagnostic X Rays approved by the President on January 26, 1978 and published at page 4377 of the FEDERAL REGISTER on February 1, 1978).
- (h) Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 USC 1401, 1402, 1411-1421, 1441-1444 and 16 U.S.C.1431-1434).
- (i) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 136 et seq.).

1-103. "Applicable pollution control standards" means the same substantive, procedural, and other requirements that would apply to a private person.

1-2. Agency Coordination.

1-201. Each Executive agency shall cooperate with the Administrator of the Environmental Protection Agency, hereinafter referred to as the Administrator, and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution.

1-202. Each Executive agency shall consult with the Administrator and with State, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

1-3. Technical Advice and Oversight.

1-301. The Administrator shall provide technical advice and assistance to Executive agencies in order to ensure their cost effective and timely compliance with applicable pollution control standards.

1-302. The administrator shall conduct such reviews and inspections as may be necessary to monitor compliance with applicable pollution control standards by Federal facilities and activities.

1-4. Pollution Control Plan.

1-401. Each Executive agency shall submit to the Director of the Office of Management and Budget, through the Administrator, an annual plan for the control of environmental pollution. The plan shall provide for any necessary improvement in the design, construction, management, operation, and maintenance of Federal facilities and activities, and shall include annual cost estimates. The Administrator shall establish guidelines for developing such plans.

1-402. In preparing its plan, each Executive agency shall ensure that the plan provides for compliance with all applicable pollution control standards.

1-403. The plan shall be submitted in accordance with any other instructions that the Director of the Office of Management and Budget may issue.

1-5. Funding.

1-501. The head of each Executive agency shall ensure that sufficient funds for compliance with applicable pollution control standards are requested in the agency budget.

1-502. The head of each Executive agency shall ensure that funds appropriated and apportioned for the prevention, control and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget.

1-6. Compliance With Pollution Controls.

1-601. Whenever the Administrator or the appropriate State, interstate, or local agency notifies an Executive agency that it is in violation of an applicable pollution control standard (see Section 1-102 of this Order), the Executive agency shall promptly consult with the notifying agency and provide for its approval a plan to achieve and maintain compliance with the applicable pollution control standard. This plan shall include an implementation schedule for coming into compliance as soon as practicable.

1-602. The Administrator shall make every effort to resolve conflicts regarding such violation between Executive agencies and, on request of any party, such conflicts between an Executive agency and a State, interstate, or a local agency. If the Administrator cannot resolve a conflict, the Administrator shall request the Director of the Office of Management and Budget to resolve the conflict.

1-603. The Director of the Office of Management and Budget shall consider unresolved conflicts at the request of the Administrator. The Director shall seek the Administrator's technological judgment and determination with regard to the applicability of statutes and regulations.

1-604. These conflict resolution procedures are in addition to, not in lieu of, other procedures,

including sanctions, for the enforcement of applicable pollution control standards.

1-605. Except as expressly provided by a Presidential exemption under this Order, nothing in this Order, nor any action or inaction under this Order, shall be construed to revise or modify any applicable pollution control standard.

1-7. Limitation on Exemptions.

1-701. Exemptions from applicable pollution control standards may only be granted under statutes cited in Section 1-102(a) through 1-102(f) if the President makes the required appropriate statutory determination: that such exemption is necessary (a) in the interest of national security, or (b) in the paramount interest of the United States.

1-702. The head of an Executive agency may, from time to time, recommend to the President through the Director of the Office of Management and Budget, that an activity or facility, or uses thereof, be exempt from an applicable pollution control standard.

1-703. The Administrator shall advise the President, through the Director of the Office of Management and Budget, whether he agrees or disagrees with a recommendation for exemption and his reasons therefor.

1-704. The Director of the Office of Management and Budget must advise the President within sixty days of receipt of the Administrator's views.

1-8. General Provisions.

1-801. The head of each Executive agency that is responsible for the construction or operation of Federal facilities outside the United States shall ensure that such construction or operation complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

1-802. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person. [New 1-802 added by Executive Order 12580, 52 FR 2923]

1-803. Executive Order No. 11752 of December 17, 1973, is revoked. [Former 1-802 redesignated as 1-803 by Executive Order 12580, 52 FR 2923]

Jimmy Carter
THE WHITE HOUSE

October 13, 1978

43 FR 47707, 3 CFR, 1978 Comp., p. 243;

Amended by Executive Order 12580, Jan. 23, 1987, 52 FR 2923, 3 CFR, 1987

Comp., p. 193

Executive Order 12114
ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

January 4, 1979

By virtue of the authority vested in me by the Constitution and the laws of the United States, and as President of the United States, in order to further environmental objectives consistent with the foreign policy and national security policy of the United States, it is ordered as follows:

SECTION 1

Section 11-1. Purpose and Scope. The purpose of this Executive Order is to enable responsible officials of Federal agencies having ultimate responsibility for authorizing and approving actions encompassed by this Order to be informed of pertinent environmental considerations and to take such considerations into account, with other pertinent considerations of national policy in making decisions regarding such actions. While based on independent authority, this Order furthers the purpose of the National Environmental Policy Act and the Marine Protection Research and Sanctuaries Act and the Deepwater Port Act consistent with the foreign policy and national security policy of the United States and represents the United States government's exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of the National Environmental Policy Act, with respect to the environment outside the United States, its territories and possessions.

SECTION 2

2-1. Agency Procedures. Every Federal agency taking major Federal actions encompassed hereby and not exempted here from having significant effects on the environment outside the geographical borders of the United States and its territories and possessions shall within eight months after the effective date of this Order have in effect procedures to implement this Order. Agencies shall consult with the Department of State and the Council on Environmental Quality concerning such procedures prior to placing them in effect.

2-2. Information Exchange. To assist in effectuating the foregoing purpose, the Department of State and the Council on Environmental Quality in collaboration with other interested Federal agencies and other nations shall conduct a program for exchange on a continuing basis of information concerning the environment. The objectives of this program shall be to provide information for use by decisionmakers, to heighten awareness of and interest in environmental concerns and, as appropriate, to facilitate environmental cooperation with foreign nations.

2-3 Actions Included. Agencies in their procedures under Section 2-1 shall establish procedures by which their officers having ultimate responsibility for authorizing and approving actions in one of the following categories encompassed by this Order, take into consideration in making decisions concerning such actions, a document described in Section 2-4(a):

(a) major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica;)

(b) major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action;

(c) major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(1) a product or physical project producing a principal product or an emission or effluent which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(2) a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

(d) major Federal actions outside the United States, its territories and possessions which significantly affect natural or ecological resources of global importance designated for protection under this subsection by the President, or, in the case of such a resource protected by international agreements binding on the United States by the Secretary of State. Recommendations to the President under this subsection shall be accompanied by the views of the Council of Environmental Quality and the Secretary of State.

2-4 Applicable Procedures.

(a) There are the following types of documents to be used in connection with actions described in Section 2-3:

(i) environmental impact statements (including generic program and specific statements);

(ii) bilateral or multilateral environmental studies, relevant or related to the proposed action, by the United States and one more foreign nations, or by an international body or organization in which the United States is a member or participant; or

(iii) concise reviews of the environmental, issues involved, including environmental assessments, summary environmental analyses or other appropriate documents.

(b) Agencies shall in their procedures provide for preparation of documents described in Section 2-4(a), with respect to actions described in Section 2-3 as follows:

(i) for effects described in Section 2-3(a), an environmental impact statement described in Section 2-4(a)(1).

(ii) for effects described in Section 2-3(b), a document described in Section 2-4(a)(ii) or (iii), as determined by the agency;

(iii) for effects described in Section 2-3(c), a document described in Section 2-4(a)(ii) or (iii), as determined by the agency;

(iv) for effects described in Section 2-3(d), a document described in Section 2-4(a)(i), (ii) or (iii), as determined by the agency. Such procedures may provide that an agency need not prepare a new document when a document described in Section 2-4(a) already exists.

(c) Nothing in this Order shall serve to invalidate any existing regulations of any agency which have been adopted pursuant to court order or pursuant to judicial settlement of any case or to prevent any

agency from providing in its procedures for measures in addition to those provided for herein to further the purpose of the National Environmental Policy Act and other environmental laws, including the Marine Protection Research and Sanctuaries Act and the Deepwater Port Act, consistent with the foreign and national security policies of the United States.

(d) Except as provided in Section 2-5(b), agencies taking action encompassed by this Order shall, as soon as feasible, inform other Federal agencies with relevant expertise of the availability of environmental documents prepared under this Order. Agencies in their procedures under Section 2-1 shall make appropriate provision for determining when an affected nation shall be informed in accordance with Section 3-2 of this Order of the availability of environmental documents prepared pursuant to those procedures. In order to avoid duplication of resources, agencies in their procedures shall provide for appropriate utilization of the resources of other Federal agencies with relevant environmental jurisdiction or expertise.

2-5 Exemptions and Considerations.

(a) Notwithstanding Section 2-3, the following actions are exempt from this Order;

(i) actions not having a significant effect on the environment outside the United States as determined by the agency;

(ii) actions taken by the President;

(iii) actions taken by or pursuant to the direction of the President or Cabinet officer when the national security or interest is involved or when the action occurs in the course of an armed conflict;

(iv) intelligence activities and arms transfers;

(v) export licenses or permits or export approvals, and actions relating to nuclear activities except actions providing to a foreign nation a nuclear production or utilization facility as defined in the Atomic Energy Act of 1954, as amended, or a nuclear waste management facility;

(vi) votes and other actions in international conferences and organizations;

(vii) disaster and emergency relief action.

(b) Agency procedures under Section 2-1 implementing Section 2-4 may provide for appropriate modifications in the contents, timing and availability of documents to other affected Federal agencies and affected nations, where necessary to:

(i) enable the agency to decide and act promptly as and when required:

(ii) avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations, sovereign responsibilities, or

(iii) ensure appropriate reflection of:

- (1) diplomatic factors;
- (2) international commercial, competitive and export promotion factors;
- (3) needs for governmental or commercial confidentiality;
- (4) national security considerations;
- (5) difficulties of obtaining information and agency ability to analyze meaning-fully environmental effects of a proposed action; and
- (6) the degree to which the agency is involved in or able to affect a decision to be made.

(c) Agency procedure under Section 2-1 may provide for categorical exclusions and for such exemptions in addition to those specified in subsection (a) of this Section as may be necessary to meet emergency circumstances, situations involving exceptional foreign policy and national security sensitivity and other such special circumstances. In utilizing such additional exemptions agencies shall, as soon as feasible, consult with the Department of State and the Council on Environmental Quality.

(d) The provisions of Section 2-5 do not apply to actions described in Section 2-3(a) unless permitted by law.

SECTION 3.

3-1. Rights of Action. This Order is solely for the purpose of establishing internal procedures for Federal agencies to consider the significant effects of their actions on the environment outside the United States, its territories and possessions, and nothing in this Order shall be construed to create a cause of action.

3-2. Foreign Relations. The Department of State shall coordinate all communications by agencies with foreign governments concerning environmental agreements and other arrangements in implementation of this Order.

3-3. Multi-Agency Actions. Where more than one Federal agency is involved in an action or program, a lead agency, as determined by the agencies involved, shall have responsibility for implementation of this Order.

3-4. Certain Terms. For purposes of this Order, "environment" means the natural and physical environment and excludes social, economic and other environments; and an action significantly affects the environment if it does significant harm to the environment even though on balance the agency believes the action to be beneficial to the environment. The term "export approvals" in Section 2-5(a)(v) does not mean or include direct loans to finance exports.

3-5. Multiple Imports. If a major Federal action having effects on the environment of the United States or the global commons requires preparation of an environmental impact statement, and if the action also has effects on the environment of a foreign nation, an environmental impact statement need not be prepared with respect to the effects on the environment of the foreign nation.

Jimmy Carter
THE WHITE HOUSE
January 4, 1979
44 FR 1957, 3 CFR, 1979 Comp., p. 356

Executive Order 12148
FEDERAL EMERGENCY MANAGEMENT

July 20, 1979

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended (50 U.S.C.App. 2251 et seq.), the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), Section 4 of Public Law 92-385 (86 Stat. 556), Section 43 of the Act of August 10, 1956, as amended (50 U.S.C.App. 2285), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended (50 U.S.C.App. 2061 et seq.), Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and in order to transfer emergency functions to the Federal Emergency Management Agency, it is hereby ordered as follows:

SECTION 1. Transfers or Reassignments

1-1. Transfer or Reassignment of Existing Functions.

1-101. All functions vested in the President that have been delegated or assigned to the Defense Civil Preparedness Agency, Department of Defense, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-102. All functions vested in the President that have been delegated or assigned to the Federal Disaster Assistance Administration, Department of Housing and Urban Development, are transferred or reassigned to the Director of the Federal Emergency Management Agency, including any of those functions are delegated or reassigned to the Department of Commerce with respect to assistance to communities in the development of readiness plans for severe weather-related emergencies.

1-103. All functions vested in the President that have been delegated or assigned to the Federal Preparedness Agency, General Services Administration, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-104. All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), including those functions performed by the Office of Science and Technology Policy, are delegated, transferred, or reassigned to the Director of the Federal Emergency Management Agency.

1-2. Transfer or Reassignment of Resources.

1-201. The records, property, personnel and positions, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, reassigned, or are delegated by this Order are hereby transferred to the Director of the Federal Emergency Management Agency.

1-202. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

2-1. General.

2-101. The Director of the Federal Emergency Management Agency shall establish Federal policies for, and coordinate, all civil defense and civil emergency planning, management, mitigation, and assistance functions of the Executive agencies.

2-102. The Director shall periodically review and evaluate the civil defense and civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the Director shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2-103. The Director shall be responsible for the coordination of efforts to promote dam safety, for the coordination of natural and nuclear disaster warning systems, and for the coordination or preparedness and planning to reduce the consequences of major terrorist incidents.

2-104. The Director shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response, and recovery programs.

2-105. The Director shall provide an annual report to the President for subsequent transmittal to the Congress on all functions of the Federal Emergency Management Agency. The report shall assess the current overall state of effectiveness of Federal civil defense and civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of governments, the private sector, and volunteer organizations.

2-2. Implementation.

2-201. In executing the functions under this Order, the Director shall develop policies which provide that all civil defense and civil emergency functions, resources and systems of Executive agencies are:

(a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable;

(b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector, and volunteer organizations; and,

(c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2-202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies.

2-203. For purposes of this Order, "civil emergency" means any accidental, natural, man-caused, or wartime emergency or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2-204. In order that civil defense planning continues to be fully compatible with the Nation's overall strategic policy, and in order to maintain an effective link between strategic nuclear planning and

nuclear attack preparedness planning, the development of civil defense policies and programs by the Director of the Federal Emergency Management Agency shall be subject to oversight by the Secretary of Defense and the National Security Council.

2-205. To the extent authorized by law and within available resources, the Secretary of Defense shall provide the Director of the Federal Emergency Management Agency with support for civil defense programs in the areas of program development and administration, technical support, research, communications, transportation, intelligence, and emergency operations.

2-206. All Executive agencies shall cooperate with and assist the Director in the performance of his functions.

2-3. Transition Provisions.

2-301. The functions which have been transferred, reassigned, or are delegated by Section 1 of this Order are recodified and revised as set forth in this Order at Section 4, and as provided by the amendments made at Section 5 to the provisions of other Orders.

2-302. Notwithstanding the revocations, revisions, codifications, and amendments made by this Order, the Director may continue to perform the functions transferred to him by Section 1 of this Order, except where they may otherwise be inconsistent with the provisions of this Order.

SECTION 3. Federal Emergency Management Council.

3-1. Establishment of the Council.

3-101. There is hereby established the Emergency Management Council.

3-102. The Council shall be composed of the Director of the Federal Emergency Management Agency, who shall be the Chairman, the Director of the Office of Management and Budget and such others as the President may designate.

3-2. Functions of the Council.

3-201. The Council shall advise and assist the President in the oversight and direction of Federal emergency programs and policies.

3-202. The Council shall provide guidance to the Director of the Federal Emergency Management Agency in the performance of functions vested in him.

3-3. Administrative and General Provisions.

3-301. The heads of Executive agencies shall cooperate with and assist the Council in the performance of its functions.

3-302. The Director of the Federal Emergency Management Agency shall provide the Council with such administrative services and support as may be necessary or appropriate.

SECTION 4. Delegations.

4-1. Delegation of Functions Transferred to the President.

4-101. The following functions were transferred to the Director of the Office of Defense Mobilization by Section 2 of Reorganization Plan No. 3 of 1953 (50 U.S.C. 404 note); they were

subsequently transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended (50 U.S.C.App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency:

(a) The functions vested in the Secretaries of Army, Navy Air Force, and Interior by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), including the functions vested in the Army and Navy Munitions Board by item (2) of Section 6 (a) of that Act (50 U.S.C. 98e(a)(2)), but excluding the functions vested in the Secretary of the Interior by Section 7 of the Act (50 U.S.C. 98f).

(b) The functions vested in the Munitions Board of the Department of Defense by Section 4 (h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)).

(c) The function vested in the Munitions Board of the Department of Defense by Section 204(f) [originally 204(e)] of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 485(f)).

4-102. The functions vested in the Director of the Office of Defense Mobilization by Sections 103 and 303 of the National Security Act of 1947, as amended by Sections 8 and 50 of the Act of September 3, 1954 (Public Law 779; 68 Stat. 128 and 1244) (50 U.S.C. 404 and 405), were transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended (50 U.S.C.App. 2771 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-103. (a) The functions vested in the Federal Civil Defense Administration or its Administrator by the Federal Civil Defense Act of 1950, as amended (50 U.S.C.App. 2251 et seq.), were transferred to the President by Reorganization Plan No. 1 of 1958, and they are hereby delegated to the Director of the Federal Emergency Management Agency.

(b) Excluded from the delegation in subsection (a) is the function under Section 205(a)(4) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C.App. 2286 (a) (4)), relating to the establishment and maintenance of personnel standards on the merit basis that was delegated to the Director of the Office of Personnel Management by Section 1(b) of Executive Order No. 11589, as amended (Section 2-101(b) of Executive Order No. 12107).

4-104. The Director of the Federal Emergency Management Agency is authorized to redelegate, in accord with the provisions of Section 1(b) of Reorganization Plan No. 1 of 1958 (50 U.S.C.App. 2271 note), any of the functions delegated by Sections 4-101, 4-102, and 4-103 of this Order.

4-105. The functions vested in the Administrator of the Federal Civil Defense Administration by Section 43 of the Act of August 10, 1956 (70A Stat. 636) were transferred to the President by Reorganization Plan No. 1 of 1958, as amended (50 U.S.C.App. 2271 note), were subsequently re-vested in the Director of the Office of Civil and Defense Mobilization by Section 512 of Public Law 86-500 (50 U.S.C.App. 2285) [the office was changed to Office of Emergency Planning by Public Law 87-296 (75 Stat. 630) and then to the Office of Emergency Preparedness by Section 402 of Public Law 90-608 (82 Stat. 1194)], were again transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C.App. 2271 note), and they are hereby delegated to the

Director of the Federal Emergency Management Agency.

4-106. The functions vested in the Director of the Office of Emergency Preparedness by Section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646), and by Section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241-1), were transferred to the President by Section 1 of Reorganization Plan No.1 of 1973 (50 U.S.C.App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-107. That function vested in the Director of the Office of Emergency Preparedness by Section 762(a) of the Education Amendments of 1972, and as further amended (20 U.S.C. 1132d-1(a)), to the extent transferred to the President by Reorganization Plan No. 1 of 1973 (50 U.S.C.App. 2271 note), is hereby delegated to the Director of the Federal Emergency Management Agency.

4-2. Delegation of Functions Vested in the President.

4-201. The functions vested in the President by the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), are hereby delegated to the Director of the Federal Emergency Management Agency.

4-202. The functions (related to grants for damages resulting from hurricane and tropical storm Agnes) vested in the President by Section 4 of Public Law 92-385 (86 Stat. 556) are hereby delegated to the Director of the Federal Emergency Management Agency.

4-203. The functions vested in the President by the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. 5121 et seq.), except those functions vested in the President by Sections 301 (relating to the declaration of emergencies and major disasters), 401 (relating to the repair, reconstruction, restorations, or replacement of Federal facilities), and 409 (related to food coupons and surplus commodities), are hereby delegated to the Director of the Federal Emergency Management Agency.

4-204. The functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (91 Stat. 1098; 42 U.S.C. 7701 et seq.) Are hereby delegated to the Director of the Federal Emergency Management Agency.

SECTION 5. Other Executive Orders.

5-1. Revocations.

5-101. Executive Order No. 10242, as amended, entitled "Prescribing Regulations Governing the Exercise by the Federal Civil Defense Administrator of Certain Administrative Authority Granted by the Federal Civil Defense Act of 1950", is revoked.

5-102. Sections 1 and 2 of Executive Order No. 10296, as amended, entitled "Providing for the Performance of Certain Defense Housing and Community Facilities and Service Functions", is revoked.

5-103. Executive Order No. 10494, as amended, relating to the dispositions of remaining functions, is revoked.

5-104. Executive Order No. 10529, as amended, relating to federal employee participation in State and local civil defense programs, is revoked.

5-105. Section 3 of Executive Order No. 10601, as amended, which concerns the Commodity Set Aside, is revoked.

5-106. Executive Order No. 10634, as amended, relating to loans for facilities destroyed or damaged by a major disaster, is revoked.

5-107. Section 4(d)(2) of Executive Order No. 10900, as amended, which concerns foreign currencies made available to make purchases for the supplemental stockpile, is revoked.

5-108. Executive Order No. 10952, as amended, entitled "Assigning Civil Defense Responsibilities to the Secretary of Defense and Others", is revoked.

5-109. Executive Order No. 11051, as amended, relating to responsibilities of the Office of Emergency Preparedness, is revoked.

5-110. Executive Order No. 11415, as amended, relating to the Health Resources Advisory Committee, is revoked.

5-111. Executive Order No. 11795, as amended, entitled "Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974", is revoked.

5-112. Executive Order No. 11725, as amended, entitled "Transfer of Certain Functions of the Office of Emergency Preparedness", is revoked.

5-113. Executive Order No. 11749, as amended, entitled "Consolidating Disaster Relief Functions Assigned to the Secretary of Housing and Urban Development", is revoked.

5-2. Amendments.

5-201. Executive Order No. 10421, as amended, relating to physical security of defense facilities is further amended by (a) substituting the "Director of the Federal Emergency Management Agency" for "Director of the Office of Emergency Planning" in Sections 1(a), 1(c) and 6(b); and (b) substituting "Federal Emergency Management Agency" for "Office of Emergency Planning" in Sections 6(b) and 7(b).

5-202. Executive Order No. 10480, as amended, is further amended by (a) substituting the "Director of the Federal Emergency Management Agency" for "Director of the Office of Emergency Planning" in Sections 101(a), 101(b), 201(a), 201(b), 301, 304, 307, 308, 310 (b), 311(b), 312, 313, 401(b), 401(e) and 605; and (b) substituting "Director of the Federal Emergency Management Agency" for "Administrator of General Services" in Section 610.

5-203. Section 3(d) of Executive Order No. 10582, as amended, which relates determinations under the Buy American Act is amended by deleting "Director of the Office of Emergency Planning" and substituting therefor "Director of the Federal Emergency Management Agency".

5-204. Paragraph 21 of Executive Order No. 10789, as amended, is further amended by adding "the Federal Emergency Management Agency" after "Government Printing Office".

5-205. Executive Order No. 11179, as amended, concerning the National Defense Executive Reserve, is further amended by deleting “Director of the Office of Emergency Planning” in Section 2 and substituting therefor “Director of the Federal Emergency Management Agency”.

5-206. Section 7 of Executive Order No. 11912, as amended, concerning energy policy and conservation, is further amended by deleting “Administrator of General Services” and substituting therefor “Director of the Federal Emergency Management Agency”.

5-207. Section 2(d) of Executive Order No. 11988, entitled “Floodplain Management” is amended by deleting “Federal Insurance Administration” and substituting therefor “Director of the Federal Emergency Management Agency”.

5-208. Section 5-3 of Executive Order No. 12046 of March 29, 1978, is amended by deleting “General Services Administration” and substituting therefor “Federal Emergency Management Agency” and by deleting “Administrator of General Services: and substituting therefor “Director of the Federal Emergency Management Agency”.

5-209. Section 1-201 of Executive Order No. 12065 is amended by adding “The Director of the Federal Emergency Management Agency” after “The Administrator, National Aeronautics and Space Administration” and by deleting “Director, Federal Preparedness Agency and to the” from the parentheses after “The Administrator of General Services”.

5-210. Section 1-102 of Executive Order No. 12075 of August 16, 1978, is amended by adding in alphabetical order “(p) Federal Emergency Management Agency”.

5-211. Section 1-102 of Executive Order No. 12083 of September 27, 1978 is amended by adding in alphabetical order “(x) the Director of the Federal Emergency Management Agency”.

5-212. Section 9.11(b) of Civil Service Rule IX (5 CFR Part 9) is amended by deleting “the Defense Preparedness Agency and”.

5-213. Section 3(2) of each of the following described Executive orders is amended by adding “Federal Emergency Management Agency” after “Department of Transportation”.

(a) Executive Order No. 11331 establishing the Pacific Northwest River Basins Commission.

(b) Executive Order No. 11345, as amended, establishing the Great Lakes Basin Commission.

(c) Executive Order No. 11371, as amended, establishing the New England River Basins Commission.

(d) Executive Order No. 11578, as amended, establishing the Ohio River Basin Commission.

(e) Executive Order No. 11658, as amended, establishing the Mississippi River Basin Commission.

(f) Executive Order No. 11669, as amended, establishing the Upper Mississippi River Basin Commission.

5-214. Executive Order No. 11490, as amended, is further amended as follows:

(a) Delete the last sentence of Section 102(a) and substitute therefor the following: "The activities undertaken by the departments and agencies pursuant to this Order, except as provided in Section 3003, shall be in accordance with guidance provided by, and subject to, evaluations by the Director of the Federal Emergency Management Agency".

(b) Delete Section 103 entitled "Presidential Assistance" and substitute the following new Section 103: "Sec. 103. General Coordination. The Director of the Federal Emergency Management Agency (FEMA) shall determine national preparedness goals and policies for the performance of functions under this Order and coordinate the performance of such functions with the total national preparedness programs".

(c) Delete the portion of the first sentence of Section 401 prior to the colon and insert the following: "The Secretary of Defense shall perform the following emergency functions".

(d) Delete "Director of the Federal Preparedness Agency (GSA)" or "the Federal Preparedness Agency (GSA)" and substitute therefor "Director, FEMA", in Sections 401(3), 401(4), 401(5), 401(9), 401(10), 401(14), 401(15), 401(16), 401(19), 401(21), 401(22), 501(8), 601(2), 904(2), 1102(2), 1203(2), 1401(a), 1701, 1702, 2003, 2004, 2801(5), 3001, 3002(2), 3004, 3005, 3006, 3008, 3010, and 3013.

(e) The number assigned to this Order shall be substituted for "11051 of September 27, 1962" in Section 3001, and for "11051" in Sections 1802, 2002(3), 3002, and 3008(1).

(f) The number assigned to this Order shall be substituted for "10952" in Sections 1103, 1104, 1205, and 3002.

(g) Delete "Department of Defense" in Sections 502, 601(1), 804, 905, 1003, 1004, 1006(4), 1205, 2002(8), the first sentence of Section 3002, and Sections 3008(1) and 3010 and substituted therefor "Director of the Federal Emergency Management Agency.".

SECTION 6. This Order is effective July 15, 1979.

Jimmy Carter
THE WHITE HOUSE
July 20, 1979
44 F.R. 43239

Executive Order 12555
PROTECTION OF CULTURAL PROPERTY

March 10, 1986

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Convention on Cultural Property Implementation Act (Title III of Public Law 97-446; hereinafter referred to as the "Act"), and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. United States Information Agency.

The following functions conferred upon the President by the Act are hereby delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury:

- (a)The functions conferred by section 303(a)(1) concerning determinations to be made prior to initiation of negotiations of bilateral or multilateral agreements.

- (b)The functions conferred by section 303(d) with respect to the determinations concerning the failure of other parties to an agreement to take any or satisfactory implementation action on their agreement; provided, however, that the Secretary of State will remain responsible for interpretation of the agreement.

- (c)The functions conferred by section 303(e) relating to the determinations to be made prior to the initiation of negotiations for the extension of any agreement.

- (d)The functions conferred by section 303(f) relating to the actions to be taken upon receipt of a request made by a State Party to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property adopted by the Sixteenth General Conference of the United Nations Educational, Scientific and Cultural Organization (hereinafter referred to as the "Convention").

- (e)The functions conferred by section 303(g)(1)(B) relating to the notification of Presidential action and the furnishing of reports to the Congress.

- (f)The functions conferred by section 304(b) to the extent that they involve determinations by the President that an emergency condition applies with respect to any archeological or ethnological material of any State Party to the Convention, subject to the limitations of section 304(c)(1), 304(c)(2), and 304(c)(3).

- (g)The functions conferred by section 304(c)(3) to the extent that they involve determinations to be made and the receipt and consideration of an advisory report from the Cultural Property Advisory Committee by the President prior to extensions of emergency import restrictions.

- (h)The functions conferred by sections 306(f)(6) and 306(g) relating to the receipt of reports prepared by the Cultural Property Advisory Committee.

(i)The functions conferred by section 306(h) relating to the determinations to be made about the disclosure of matters involved in the Cultural Property Advisory Committee's proceedings.

SECTION 2. Department of State.

The following functions conferred upon the President in the Act are hereby delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury:

(a)The functions conferred by section 303(a)(2) relating to the negotiation and conclusion of bilateral or multilateral agreements under the Act, subject to the restrictions of section 303(c).

(b)The functions conferred by section 303(a)(4) relating to obtaining a commitment on the exchange of archeological and ethnological materials from a party to an agreement.

(c)The functions conferred by section 303(e) relating only to negotiation and conclusion of extensions of agreements under the Act.

(d)Except with respect to subsection 303(g)(1)(B), the functions conferred by section 303(g), relating to notification of Presidential action and the furnishing of reports to the Congress.

(e)The functions conferred by section 304(c)(4) to the extent that they involve the negotiation and conclusion of agreements subject to advice and consent to ratification by the Senate.

SECTION 3. Department of the Treasury.

The following functions conferred upon the President by the Act are hereby delegated to the Secretary of the Treasury, acting in consultation with the Director of the United States Information Agency and the Secretary of State:

(a)Subject to subsection (b) of Section 1 above, the functions conferred by section 303(d) to the extent that they involve suspension of import restrictions.

(b)Subject to subsection (f) and (g) of Section 1 above, the functions conferred by section 304 to the extent that they involve the application of import restrictions set forth in section 307 and the extension of such import restrictions pursuant to section 304(c)(3).

SECTION 4. Enforcement in Territories and Other Areas.

The Secretary of the Interior is designated to carry out the enforcement functions in section 314.

Ronald Reagan

THE WHITE HOUSE

March 10, 1986

51 F.R. 8475

Executive Order 12580
SUPERFUND IMPLEMENTATION

Jan. 23, 1987

By the authority vested in me as President of the United States of America by Section 115 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 USC 9615 et seq.) ("the Act"), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. National Contingency Plan.

(a)(1) The National Contingency Plan ("the NCP"), shall provide for a National Response Team ("the NRT") composed of representatives of appropriate Federal departments and agencies for national planning and coordination of preparedness and response actions, and Regional Response Teams as the regional counterparts to the NRT for planning and coordination of regional preparedness and response actions.

(2) The following agencies (in addition to other appropriate agencies) shall provide representatives to the National and Regional Response Teams to carry out their responsibilities under the NCP: Department of State, Department of Defense, Department of Justice, Department of the Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Health and Human Services, Department of Transportation, Department of Energy, Environmental Protection Agency, Federal Emergency Management Agency, United States Coast Guard, and the Nuclear Regulatory Commission.

(3) Except for periods of activation because of response action, the representative of the Environmental Protection Agency ("EPA") shall be the chairman, and the representative of the United States Coast Guard shall be the vice chairman, of the NRT and these agencies' representative shall be co-chairs of the Regional Response Teams ("the RRTs"). When the NRT or an RRT is activated for a response action, the EPA representative shall be the chairman when the release or threatened release or discharge or threatened discharge occurs in the inland zone, and the United States Coast Guard representative shall be the chairman when the release or threatened release or discharge or threatened discharge occurs in the coastal zone, unless otherwise agreed upon by the EPA and the United States Coast Guard representatives (inland and coastal zones are defined in the NCP).

(4) The RRTs may include representatives from State governments, local governments (as agreed upon by the States), and Indian tribal governments. Subject to the functions and authorities delegated to executive departments and agencies in other sections of this order, the NRT shall provide policy and program direction to the RRTs.

(b)(1) The responsibility for the revision of the NCP and all the other functions vested in the President by Sections 105(a), (b), (c), and (g), 125, and 301(f) of the Act, by Section 311(d)(1) of the Federal Water Pollution Control Act, and by Section 4201(c) of the Oil Pollution Act of 1990 is delegated to the Administrator of the Environmental Protection Agency ("the Administrator").

(2) The function vested in the President by Section 118(p) of the Superfund Amendments and

Reauthorization Act of 1986 (Pub. L. 99-499) ("SARA") is delegated to the Administrator.

(c) In accord with Section 107(f)(2)(A) of the Act, Section 311(f)(5) of the Federal Water Pollution Control Act, as amended (33 USC 1321(f)(5)), and Section 1006(b)(1) and (2) of the Oil Pollution Act of 1990, the following shall be among those designated in the NCP as Federal trustees for natural resources:

- (1) Secretary of Defense;
- (2) Secretary of the Interior;
- (3) Secretary of Agriculture;
- (4) Secretary of Commerce;
- (5) Secretary of Energy.

In the event of a spill, the above named Federal trustees for natural resources shall designate one trustee to act as Lead Administrative Trustee, the duties of which shall be defined in the regulations promulgated pursuant to Section 1006(e)(1) of OPA. If there are natural resource trustees other than those designated above which are acting in the event of a spill, those other trustees may join with the Federal trustees to name a Lead Administrative Trustee which shall exercise the duties defined in the regulations promulgated pursuant to Section 1006(e)(1) of OPA.

(d) Revisions to the NCP shall be made in consultation with members of the NRT prior to publication for notice and comment.

(e) All revisions to the NCP, whether in proposed or final form, shall be subject to review and approval by the Director or the Office of Management and Budget ("OMB"). [Section 1 revised by E.O. 12777, Oct. 18, 1991]

SECTION 2. Response and Related Authorities.

(a) The functions vested in the President by the first sentence of Section 104(b)(1) of the Act relating to "illness, disease, or complaints thereof" are delegated to the Secretary of Health and Human Services who shall, in accord with Section 104(i) of the Act, perform those functions through the Public Health Service.

(b) The functions vested in the President by Sections 104(e)(7)(C), 113(k)(2), 119(c)(7), and 121(f)(1) of the Act, relating to promulgation of regulations and guidelines, are delegated to the Administrator, to be exercised in consultation with the NRT.

(c)(1) The functions vested in the President by Sections 104(a) and the second sentence of 126(b) of the Act, to the extent they require permanent relocation of residents, businesses, and community facilities or temporary evacuation and housing of threatened individuals not otherwise provided for, are delegated to the Director of the Federal Emergency Management Agency.

(2) Subject to subsection (b) of this Section, the functions vested in the President by Sections 117(a) and (c) and 119 of the Act, to the extent such authority is needed to carry out the functions delegated under paragraph (1) of this subsection, are delegated to the Director of the Federal Emergency Management Agency.

(d) Subject to subsections (a), (b) and (c) of this Section, the functions vested in the President by

Sections 104(a), (b) and (c)(4), 113(k), 117(a) and (c), 119, and 121 of the Act are delegated to the Secretaries of Defense and Energy, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of their departments, respectively, including vessels bare-boat chartered and operated. These functions must be exercised consistent with the requirements of Section 120 of the Act.

(e)(1) Subject to subsections (a), (b), (c), and (d) of this Section, the functions vested in the President by Sections 104(a), (b), and (c)(4), and 121 of the Act are delegated to the heads of Executive departments and agencies, with respect to remedial actions for releases or threatened releases which are not on the National Priorities List ("the NPL") and removal actions other than emergencies, where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments and agencies, including vessels bare-boat chartered and operated. The Administrator shall define the term "emergency", solely for the purposes of this subsection, either by regulation or by a memorandum of understanding with the head of an Executive department or agency.

(2) Subject to subsections (b), (c), and (d) of this Section, the functions vested in the President by Sections 104(b)(2), 113(k), 117(a) and (c), and 119 of the Act are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments and agencies, including vessels bare-boat chartered and operated.

(f) Subject to subsections (a), (b), (c), (d), and (e) of this Section, the functions vested in the President by Sections 104(a), (b) and (c)(4), 113(k), 117(a) and (c), 119, and 121 of the Act are delegated to the Secretary of the Department in which the Coast Guard is operating ("the Coast Guard"), with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(g) Subject to subsections (a), (b), (c), (d), (e), and (f) of this Section, the functions vested in the President by Sections 101(24), 104(a), (b), (c)(4) and (c)(9), 113(k), 117(a) and (c), 119, 121, and 126(b) of the Act are delegated to the Administrator. The Administrator's authority under Section 119 of the Act is retroactive to the date of enactment of SARA.

(h) The functions vested in the President by Section 104(c)(3) of the Act are delegated to the Administrator, with respect to providing assurances for Indian tribes, to be exercised in consultation with the Secretary of the Interior.

(i) Subject to subsections (d), (e), (f), (g) and (h) of this Section, the functions vested in the President by Section 104(c) and (d) of the Act are delegated to the Coast Guard, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and the Administrator in order to carry out the functions delegated to them by this Section.

(j)(1) The functions vested in the President by Section 104(e)(5)(A) are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction,

custody or control of those departments and agencies, to be exercised with the concurrence of the Attorney General.

(2) Subject to subsection (b) of this Section and paragraph (1) of this subsection, the functions vested in the President by Section 104(e) are delegated to the heads of Executive departments and agencies in order to carry out their functions under this Order or the Act.

(k) The functions vested in the President by Sections 104(f), (g), (h), (i)(11), and (j) of the Act are delegated to the heads of the Executive departments and agencies in order to carry out the functions delegated to them by this Section. The exercise of authority under Section 104(h) of the Act shall be subject to the approval of the Administrator of the Office of Federal Procurement Policy.

SECTION 3. Cleanup Schedules.

(a) The functions vested in the President by Sections 116(a) and the first two sentences of 105(d) of the Act are delegated to the heads of Executive departments and agencies with respect to facilities under the jurisdiction, custody or control of those departments and agencies.

(b) Subject to subsection (a) of this Section, the functions vested in the President by Sections 116 and 105(d) are delegated to the Administrator.

SECTION 4. Enforcement.

(a) The functions vested in the President by Sections 109(d) and 122(e)(3)(A) of the Act, relating to development of regulations and guidelines, are delegated to the Administrator, to be exercised in consultation with the Attorney General.

(b)(1) Subject to subsection (a) of this Section, the functions vested in the President by Section 122 (except subsection (b)(1)) are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases no on the NPL where either the release is on or the sole source of release is from any facility under the jurisdiction, custody or control of those Executive departments and agencies. These functions may be exercised only with the concurrence of the Attorney General.

(2) Subject to subsection (a) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Section 122 of the Act, are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases no on the NPL where either the release is on or the sole source of the release is from any facility under the jurisdiction, custody or control of those Executive departments and agencies. These functions may be exercised only with the concurrence of the Attorney General.

(c)(1) Subject to subsection (a) and (b)(1) of this Section, the functions vested in the President by Sections 106(a) and 122 of the Act are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, or harbors.

(2) Subject to subsection (a) and (b)(2) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Section 103 (a) and (b), and 122 of the Act, are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(d)(1) Subject to subsections (a), (b)(2), and (c)(2) of this Section, the functions vested in the President by Sections 106 and 122 of the Act are delegated to the Administrator.

(2) Subject to subsections (a), (b)(2), and (c)(2) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Sections 103 and 122 of the Act, are delegated to the Administrator.

(3) Notwithstanding any other provision of this Order, the authority under Sections 104(e)(5)(A) and 106(a) of the Act to seek information, entry, inspection, samples, or response actions from Executive departments and agencies may be exercised only with the concurrence of the Attorney General.

SECTION 5. Liability.

(a) The function vested in the President by Section 107(c)(1)(C) of the Act is delegated to the Secretary of Transportation.

(b) The functions vested in the President by Section 107(c)(3) of the Act are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(c) Subject to subsection (b) of this Section, the functions vested in the President by Section 107(c)(3) of the Act are delegated to the Administrator.

(d) The functions vested in the President by Section 107(f)(1) of the Act are delegated to each of the Federal trustees for natural resources designated in the NCP for resources under their trusteeship.

(e) The functions vested in the President by Section 107(f)(2)(B) of the Act, to receive notification of the state natural resources trustee designations, are delegated to the Administrator.

SECTION 6. Litigation.

(a) Notwithstanding any other provision of this Order, any representation pursuant to or under this Order in any judicial proceedings shall be by or through the Attorney General. The conduct and control of all litigation arising under the Act shall be the responsibility of the Attorney General.

(b) Notwithstanding any other provision of this Order, the authority under the Act to require the Attorney General to commence litigation is retained by the President.

(c) The functions vested in the President by Section 113(g) of the Act, to receive notification of a natural resource trustee's intent to file suit, are delegated to the heads of Executive departments and agencies with respect to response actions for which they have been delegated authority under Section 2 of this Order. The Administrator shall promulgate procedural regulations for providing such notification.

(d) The functions vested in the President by Sections 310(d) and (e) of the Act, relating to promulgation of regulations, are delegated to the Administrator.

SECTION 7. Financial Responsibility.

(a) The functions vested in the President by Section 107(k)(4)(B) of the Act are delegated to the

Secretary of the Treasury. The Administrator will provide the Secretary with such technical information and assistance as the Administrator may have available.

(b)(1) The functions vested in the President by Section 108(a)(1) of the Act, are delegated to the Coast Guard.

(2) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(a)(1) of the Act, are delegated to the Coast Guard.

(c)(1) The functions vested in the President by Section 108(b) of the Act, are delegated to the Secretary of Transportation with respect to all transportation related facilities, including any pipeline, motor vehicle, rolling stock, or aircraft.

(2) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(a)(3) of the Act, are delegated to the Secretary of Transportation.

(3) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(b) of the Act, are delegated to the Secretary of Transportation with respect to all transportation related facilities, including pipeline, motor vehicle, rolling stock, or aircraft.

(d)(1) Subject to subsection (c)(1) of this Section, the functions vested in the President by Section 108(a)(4) and (b) of the Act are delegated to the Administrator.

(2) Subject to Section 4(a) of this Order and subsection (c)(3) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(a)(4) and (b) of the Act, are delegated to the Administrator.

SECTION 8. Employee Protection and Notice to Injured.

(a) The functions vested in the President by Section 110(e) of the Act are delegated to the Administrator.

(b) The functions vested in the President by Section 111(g) of the Act are delegated to the Secretaries of Defense and Energy with respect to releases from facilities or vessels under the jurisdiction, custody, or control of their departments, respectively, including vessels bare-boat chartered and operated.

(c) Subject to subsection (b) of this Section, the functions vested in the President by Section 111(g) of the Act are delegated to the Administrator.

SECTION 9. Management of Hazardous Substance Superfund and Claims.

(a) The functions vested in the President by Section 111(a) of the Act are delegated to the Administrator, subject to the provisions of this Section and other applicable provisions of this Order.

(b) The Administrator shall transfer to other agencies, from the Hazardous Substance Superfund out of sums appropriated, such amounts as the Administrator may determine necessary to carry out the

purposes of the Act. These amounts shall be consistent with the President's Budget, within the total approved by the Congress, unless a revised amount is approved by OMB. Funds appropriated specifically for the Agency for Toxic Substances and Disease Registry (ATSDR), shall be directly transferred to ATSDR, consistent with fiscally responsible investment of trust fund money.

(c) The Administrator shall chair a budget task force composed of representatives of Executive departments and agencies having responsibilities under this Order or the Act. The Administrator shall also, as part of the budget request for the Environmental Protection Agency, submit to OMB a budget for the Hazardous Substance Superfund which is based on recommended levels developed by the budget task force. The Administrator may prescribe reporting and other forms, procedures, and guidelines to be used by the agencies of the Task Force in preparing the budget request, consistent with budgetary reporting requirements issued by OMB. The Administrator shall prescribe forms to agency task force members for reporting the expenditure of funds on a site specific basis.

(d) The Administrator and each department and agency head to whom funds are provided pursuant to this Section, with respect to funds provided to them, are authorized in accordance with Section 111(f) of the Act to designate Federal officials who may obligate such funds.

(e) The functions vested in the President by Section 112 of the Act are delegated to the Administrator for all claims presented pursuant to Section 111 of the Act.

(f) The functions vested in the President by Section 111(o) of the Act are delegated to the Administrator.

(g) The functions vested in the President by Section 117(e) of the Act are delegated to the Administrator, to be exercised in consultation with the Attorney General.

(h) The functions vested in the President by Section 123 of the Act are delegated to the Administrator.

(i) Funds from the Hazardous Substance Superfund may be used, at the discretion of the Administrator or the Coast Guard, to pay for removal actions for releases or threatened releases from facilities or vessels under the jurisdiction, custody, or control of Executive departments and agencies but must be reimbursed to the Hazardous Substance Superfund by such Executive department or agency.

SECTION 10. Federal Facilities.

(a) When necessary, prior to selection of a remedial action by the Administrator under Section 120(e)(4)(A) of the Act, Executive agencies shall have the opportunity to present their views to the Administrator after using the procedures under Section 1-6 of Executive Order No. 12088 of October 13, 1978, or any other mutually acceptable process. Notwithstanding subsection 1-602 of Executive Order No. 12088, the Director of the Office of Management and Budget shall facilitate resolution of any issues.

(b) Executive Order No. 12088 of October 13, 1978, is amended by renumbering the current Section 1-802 as Section 1-803 and inserting the following new Section 1-802:

“1-802. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.”

SECTION 11. General Provisions.

- (a) The function vested in the President by Section 101(37) of the Act is delegated to the Administrator.
- (b)(1) The function vested in the President by Section 105(f) of the Act, relating to reporting on minority participation in contracts, is delegated to the Administrator.
- (2) Subject to paragraph 1 of this subsection, the functions vested in the President by Section 105(f) of the Act are delegated to the heads of Executive departments and agencies in order to carry out the functions delegated to them by this Order. Each Executive department and agency shall provide to the Administrator any requested information on minority contracting for inclusion in the Section 105(f) annual report.
- (c) The functions vested in the President by Section 126(c) of the Act are delegated to the Administrator, to be exercised in consultation with the Secretary of the Interior.
- (d) The functions vested in the President by Section 301(c) of the Act are delegated to the Secretary of the Interior.
- (e) Each agency shall have authority to issue such regulations as may be necessary to carry out the functions delegated to them by this Order.
- (f) The performance of any function under this Order shall be done in consultation with interested Federal departments and agencies represented on the NRT, as well as with any other interested Federal agency.
- (g) The following functions vested in the President by the Act which have been delegated or assigned by this Order may be delegated to the head of any Executive department or agency with his consent: functions set forth in Sections 2 (except subsection (b)), 3, 4(b), 4(c), 4(d), 5(b), 5(c), and 8(c) of this Order.
- (h) Executive Order No. 12316 of August 14, 1981, is revoked.

Ronald Reagan
THE WHITE HOUSE
52 FR 2923, Jan. 29, 1987, 3 CFR, 1987 Comp., p. 193;
Amended by Executive Order 12777, Oct. 18, 1991;
56 FR 54757, Oct. 22, 1991

Executive Order 12780
FEDERAL AGENCY RECYCLING AND THE COUNCIL ON FEDERAL RECYCLING AND
PROCUREMENT POLICY

October 31, 1991

WHEREAS, this Administration is determined to secure for future generations of Americans their rightful share of our Nation's natural resources, as well as a clean and healthful environment in which to enjoy them; and

WHEREAS, two goals of this Administration's environmental policy, cost-effective pollution prevention and the conservation of natural resources, can be significantly advanced by reducing waste and recycling the resources used by this generation of Americans; and

WHEREAS, the Federal Government, as one of the Nation's largest generators of solid waste, is able through cost-effective waste reduction and recycling resources to conserve local government disposal capacity; and

WHEREAS, the Federal Government, as the Nation's largest single consumer, is able through affirmative procurement practices to encourage the development of economically efficient markets for products manufactured with recycled materials;

NOW, THEREFORE, I, GEORGE BUSH, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Solid Waste Disposal Act, Public Law 89-272, 79 Stat. 997, as amended by the Resource Conservation and Recovery Act ("RCRA"), Public Law 94-580, 90 Stat.2795 (1976), hereby order as follows:

PART 1--PREAMBLE

Section 101. The purpose of this Executive order is to:

- (a) Require that Federal agencies promote cost-effective waste reduction and recycling of reusable materials from wastes generated by Federal Government activities.

- (b) Encourage economically efficient market demand for designated items produced using recovered materials by directing the immediate implementation of cost-effective Federal procurement preference programs favoring the purchase of such items.

- (c) Provide a forum for the development and study of policy options and procurement practices that will promote environmentally sound and economically efficient waste reduction and recycling of our Nation's resources.

- (d) Integrate cost-effective waste reduction and recycling programs into all Federal agency waste management programs in order to assist in addressing the Nation's solid waste disposal problems.

- (e) Establish Federal Government leadership in addressing the need for efficient State and local solid waste management through implementation of environmentally sound and economically efficient recycling.

Section 102. Consistent with section 6002(c)(1) of RCRA (42 U.S.C. 6962(c)(1)), activities and operations of the executive branch shall be conducted in an environmentally responsible manner, and waste reduction and recycling opportunities shall be utilized to the maximum extent practicable, consistent with economic efficiency.

Section 103. Consistent with section 6002(c)(2) of RCRA (42 U.S.C. 6962(c)(2)), agencies that generate energy from fossil fuel in systems that have the technical capacity of using energy or fuels derived from solid waste as a primary or supplementary fuel shall use such capability to the maximum extent practicable.

PART 2--DEFINITIONS

For purposes of this order:

Section 201. "Federal agency" means any department, agency, or other instrumentality of the executive branch.

Section 202. "Procurement" and "acquisition" are used interchangeably to refer to the processes through which Federal agencies purchase products.

Section 203. "Recovered materials" is used as defined in section 1004(19) and 6002(h) of the Resource Conservation and Recovery Act (42 U.S.C. 6903(19) and 6962(h)), as amended.

Section 204. "Recycling" means the diversion of materials from the solid waste stream and the beneficial use of such materials. Recycling is further defined as the result of a series of activities by which materials that would become or otherwise remain waste, are diverted from the solid waste stream by collection, separation and processing and are used as raw materials in the manufacture of goods sold or distributed in commerce or the reuse of such materials as substitutes for goods made of virgin materials.

Section 205. "Waste reduction" means any change in a process, operation, or activity that results in the economically efficient reduction in waste material per unit of production without reducing the value output of the process, operation, or activity, taking into account the health and environmental consequences of such change.

PART 3--SOLID WASTE RECYCLING PROGRAMS

Section 301. Recycling Programs. Each Federal agency that has not already done so shall initiate a program to promote cost-effective waste reduction and recycling of reusable materials in all of its operations and facilities. These programs shall foster (a) practices that reduce waste generation, and (b) the recycling of recyclable materials such as paper, plastic, metals, glass, used oil, lead acid batteries, and tires and the composting of organic materials such as yard waste. The recycling programs implemented pursuant to this section must be compatible with applicable State and local recycling requirements.

Section 302. Contractor Operated Facilities. Every contract that provides for contractor operation of a Government-owned or leased facility, awarded more than 210 days after the effective date of this Executive order, shall include provisions that obligate the contractor to comply with the requirements of this Part as fully as though the contractor were a Federal agency.

PART 4--VOLUNTARY STANDARDS

Section 401. Amendment of OMB Circular No. A-119. The Director of the Office of Management and

Budget ("OMB") shall amend, as appropriate, OMB Circular No. A-119, "Federal Participation in the Development and Use of Voluntary Standards," to encourage Federal agencies to participate in the development of environmentally sound and economically efficient standards and to encourage Federal agency use of such standards.

PART 5--PROCUREMENT OF RECOVERED MATERIALS

Section 501. Adoption of Affirmative Procurement Programs. Within 180 days after the effective date of this order, each Federal agency shall provide a report to the Administrator of the Environmental Protection Agency regarding the Agency's adoption of an affirmative procurement program; such programs are required by section 6002(i) of RCRA (42 U.S.C. 6962(i)). Within 1 year of the issuance of this order, the Administrator of the Environmental Protection Agency shall report to the President regarding the compliance of each Federal agency with this requirement.

Section 502. Annual Review of Affirmative Procurement Programs. In accordance with section 6002(i) of RCRA (42 U.S.C. 6962(i)), each Federal agency shall review annually the effectiveness of its affirmative procurement program and shall provide a report regarding its findings to the Environmental Protection Agency and to the Office of Federal Procurement Policy, beginning with a report covering fiscal year 1992. Such report shall be transmitted by December 15 each year. Reports required by this section shall be made available to the public.

PART 6--RECYCLING COORDINATORS AND THE COUNCIL ON FEDERAL RECYCLING AND PROCUREMENT POLICY

Section 601. Federal Recycling Coordinator. Within 90 days after the effective date of this order, the Administrator of the Environmental Protection Agency shall designate a senior official of that Agency to serve as the Federal Recycling Coordinator. The Federal Recycling Coordinator shall review and report annually to OMB, at the time of agency budget submissions, the actions taken by the agencies to comply with the requirements of this order.

Section 602. Designation of Recycling Coordinators. Within 90 days after the effective date of this order, the head of each Federal agency shall designate an agency employee to serve as Agency Recycling Coordinator. The Agency Recycling Coordinator shall be responsible for:

- (a) coordinating the development of an effective agency waste reduction and recycling program that complies with the comprehensive implementation plan developed by the Council on Federal Recycling and Procurement Policy;
- (b) coordinating agency action to develop benefits, costs, and savings data measuring the effectiveness of the agency program; and
- (c) coordinating the development of agency reports required by this Executive order and providing copies of such reports to the Environmental Protection Agency.

Section 603. The Council on Federal Recycling and Procurement Policy

(a) A Council on Federal Recycling and Procurement Policy is hereby established. It shall comprise the Federal Recycling Coordinator, the Chairman of the Council on Environmental Quality, the Administrator of the Office of Federal Procurement Policy, and the Agency Recycling Coordinator and the Procurement Executive of each of the following agencies: the Environmental Protection

Agency, the Department of Defense, the General Services Administration, the National Aeronautics and Space Administration, the Department of Energy, the Department of Commerce, and the Department of the Interior. The Federal Recycling Coordinator shall serve as Chair of the Council.

(b) Duties. The Council on Federal Recycling and Procurement Policy shall: (1) identify and recommend, to OMB, initiatives that will promote the purposes of this order, including:

(A) the development of appropriate incentives to encourage the economically efficient acquisition by the Federal Government of products that reduce waste and of products produced with recycled materials;

(B) the development of appropriate incentives to encourage active participation in economically efficient Federal waste reduction and recycling programs; and

(C) the development of guidelines for cost-effective waste reduction and recycling activities by Federal agencies;

(2) review Federal agency specifications and standards and recommend changes that will enhance Federal procurement of products made from recycled and recyclable materials, taking into account the costs and the performance requirements of each agency;

(3) collect and disseminate Federal agencies' information concerning methods to reduce wastes, types of materials that can be recycled, the costs and savings associated with recycling, and the current market sources and prices of products that reduce waste and of products produced with recycled materials;

(4) assist the development of cost-effective waste reduction and recycling programs pursuant to this order by developing guidelines for agency waste reduction and recycling programs and by identifying long-range goals for Federal waste reduction and recycling programs;

(5) provide meaningful data to measure the effectiveness and progress of Federal waste reduction and recycling programs;

(6) provide guidance and assistance to the Agency Recycling Coordinators in setting up and reporting on agency programs; and

(7) review Federal agency compliance with section 103 of this order.

PART 7--LIMITATION

Section 701. This order is intended only to improve the internal management of the executive branch and shall not be interpreted to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers, or any other person.

Section 702. Section 502 and Part 6 of this order shall be effective for 5 years only, beginning on the effective date of this order.

Section 703. This order shall be effective immediately.

George Bush
THE WHITE HOUSE

Executive Order 12843
PROCUREMENT REQUIREMENTS AND POLICIES FOR FEDERAL AGENCIES FOR
OZONE-DEPLETING SUBSTANCES

April 21, 1993

WHEREAS, the essential function of the stratospheric ozone layer is shielding the Earth from dangerous ultraviolet radiation; and

WHEREAS, the production and consumption of substances that cause the depletion of stratospheric ozone are being rapidly phased out on a worldwide basis with the support and encouragement of the United States; and

WHEREAS, the Montreal Protocol on Substances that Deplete the Ozone Layer, to which the United States is a signatory, calls for a phaseout of the production and consumption of these substances; and

WHEREAS, the Federal Government, as one of the principal users of these substances, is able through affirmative procurement practices to reduce significantly the use of these substances and to provide leadership in their phaseout; and

WHEREAS, the use of alternative substances and new technologies to replace these ozone-depleting substances may contribute positively to the economic competitiveness on the world market of U.S. manufacturers of these innovative safe alternatives;

NOW, THEREFORE, I, WILLIAM JEFFERSON CLINTON, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the 1990 amendments to the Clean Air Act ("Clean Air Act Amendments"), Public Law 101-549, and in order to reduce the Federal Government's procurement and use of substances that cause stratospheric ozone depletion, do hereby order as follows:

SECTION 1. Federal Agencies.

Federal agencies shall, to the extent practicable:

- (a) conform their procurement regulations and practices to the policies and requirements of Title VI of the Clean Air Act Amendments, which deal with stratospheric ozone protection;
- (b) maximize the use of safe alternatives to ozone- depleting substances;
- (c) evaluate the present and future uses of ozone- depleting substances, including making assessments of existing and future needs for such materials and evaluate their use of and plans for recycling;
- (d) revise their procurement practices and implement cost-effective programs both to modify specifications and contracts that require the use of ozone-depleting substances and to substitute non-ozone-depleting substances to the extent economically practicable; and

(e) exercise leadership, develop exemplary practices, and disseminate information on successful efforts in phasing out ozone-depleting substances.

SECTION. 2. Definitions.

(a) "Federal agency" means any executive department, military department, or independent agency within the meaning of 5 U.S.C. 101, 102, or 104(1), respectively.

(b) "Procurement" and "acquisition" are used interchangeably to refer to the processes through which Federal agencies purchase products and services.

(c) "Procurement regulations, policies and procedures" encompasses the complete acquisition process, including the generation of product descriptions by individuals responsible for determining which substances must be acquired by the agency to meet its mission.

(d) "Ozone-depleting substances" means the substances controlled internationally under the Montreal Protocol and nationally under Title VI of the Clean Air Act Amendments. This includes both Class I and Class II substances as follows:

(i) "Class I substance" means any substance designated as Class I in the Federal Register notice of July 30, 1992 (57 Fed. Reg. 33753), including chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform and any other substance so designated by the Environmental Protection Agency ("EPA") by regulation at a later date; and

(ii) "Class II substance" means any substance designated as Class II in the Federal Register notice of July 30, 1992 (57 Fed. Reg. 33753), including hydrochlorofluorocarbons and any other substances so designated by EPA by regulation at a later date.

(e) "Recycling" is used to encompass recovery and reclamation, as well as the reuse of controlled substances.

SECTION. 3. Policy.

It is the policy of the Federal Government that Federal agencies:

(i) implement cost-effective programs to minimize the procurement of materials and substances that contribute to the depletion of stratospheric ozone; and

(ii) give preference to the procurement of alternative chemicals, products, and manufacturing processes that reduce overall risks to human health and the environment by lessening the depletion of ozone in the upper atmosphere. In implementing this policy, prior to final promulgation of EPA regulations on Federal procurement, Federal agencies shall begin conforming their procurement policies to the general requirements of Title VI of the Clean Air Act Amendments by:

(a) minimizing, where economically practicable, the procurement of products containing or manufactured with Class I substances in anticipation of the phaseout schedule to be promulgated by EPA for Class I substances, and maximizing the use of safe alternatives. In developing their procurement policies, agencies should be aware of the phaseout schedule for Class II substances;

(b) amending existing contracts, to the extent permitted by law and where practicable, to be

consistent with the phaseout schedules for Class I substances. In awarding contracts, agencies should be aware of the phaseout schedule for Class II substances in awarding contracts;

(c) implementing policies and practices that recognize the increasingly limited availability of Class I substances as production levels capped by the Montreal Protocol decline until final phaseout. Such practices shall include, but are not limited to:

- (i) reducing emissions and recycling ozone-depleting substances;
- (ii) ceasing the purchase of nonessential products containing or manufactured with ozone-depleting substances; and
- (iii) requiring that new contracts provide that any acquired products containing or manufactured with Class I or Class II substances be labeled in accordance with section 611 of the Clean Air Act Amendments.

SECTION 4. Responsibilities.

Not later than 6 months after the effective date of this Executive order, each Federal agency, where feasible, shall have in place practices that, where economically practicable, minimize the procurement of Class I substances. Agencies also shall be aware of the phaseout schedule for Class II substances. Agency practices may include, but are not limited to:

- (a) altering existing equipment and/or procedures to make use of safe alternatives;
- (b) specifying the use of safe alternatives and of goods and services, where available, that do not require the use of Class I substances in new procurements and that limit the use of Class II substances consistent with section 612 of the Clean Air Act Amendments; and
- (c) amending existing contracts, to the extent permitted by law and where practicable, to require the use of safe alternatives.

SECTION 5. Reporting Requirements.

Not later than 6 months after the effective date of this Executive order, each Federal agency shall submit to the Office of Management and Budget a report regarding the implementation of this order. The report shall include a certification by each agency that its regulations and procurement practices are being amended to comply with this order.

SECTION 6. Exceptions.

Exceptions to compliance with this Executive order may be made in accordance with section 604 of the Clean Air Act Amendments and with the provisions of the Montreal Protocol.

SECTION 7. Effective Date.

This Executive order is effective 30 days after the date of issuance. Although full implementation of this order must await revisions to the Federal Acquisition Regulations ("FAR"), it is expected that Federal agencies will take all appropriate actions in the interim to implement those aspects of the order that are not dependent upon regulatory revision.

SECTION 8. Federal Acquisition Regulatory Councils.

Pursuant to section 6(a) of the Office of Federal Procurement Policy Act, as amended, 41 U.S.C. 405(a), the Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council shall ensure that the

policies established herein are incorporated in the FAR within 180 days from the date this order is issued.

SECTION 9. Judicial Review.

This order does not create any right or benefit, substantive or procedural, enforceable by a non-Federal party against the United States, its officers or employees, or any other person.

William J. Clinton
THE WHITE HOUSE
April 21, 1993

Executive Order 12844
FEDERAL USE OF ALTERNATIVE FUELED VEHICLES

April 21, 1993

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Energy Policy and Conservation Act, as amended (42 U.S.C. 6201 et seq.), the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 1901 et seq.), the Energy Policy Act of 1992 (Public Law 102-486), and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. Federal Leadership and Goals.

The use of alternative fueled motor vehicles can, in some applications, substantially reduce pollutants in the atmosphere, create significant domestic economic activity and stimulate jobs creation, utilize domestic fuel sources as defined by the Energy Policy Act of 1992, and reduce vehicle maintenance costs.

Moreover, Federal action can provide a significant market impetus for the development and manufacture of alternative fueled vehicles, and for the expansion of the fueling infrastructure necessary to support large numbers of privately owned alternative fueled vehicles.

The Federal Government can exercise leadership in the use of alternative fueled vehicles. To that end, each agency shall adopt aggressive plans to substantially exceed the alternative fueled vehicle purchase requirements established by the Energy Policy Act of 1992.

SECTION 2. Alternative Fueled Vehicle Requirements.

The Federal Government shall acquire, subject to the availability of funds and considering life cycle costs, alternative fueled vehicles in numbers that exceed by 50 percent the requirements for 1993 through 1995 set forth in the Energy Policy Act of 1992. The Federal fleet vehicle acquisition program shall be structured with the objectives of:

- (a) continued reduction in the incremental cost associated with specific vehicle and fuel combinations;
- (b) long-term movement toward increasing availability of alternative fueled vehicles produced as standard manufacturers' models; and
- (c) minimizing life cycle costs in the acquisition of alternative fueled vehicles. In addition, there is established, for a period not to exceed 1 year, the Federal Fleet Conversion Task Force, a Federal interagency implementation committee to be constituted by the Secretary of Energy, in consultation with a Task Force Chairman to be named by the President. The Task Force will advise on the implementation of this Executive order. The Task Force will issue a public report within 90 days, setting forth a recommended plan and schedule of implementation and, no later than 1 year from the date of this order, in cooperation with the Secretary of Energy, file a report on the status of the conversion effort.

SECTION 3. Alternative Fueled Vehicle Acquisition Assistance.

Within available appropriations, and as required by the Energy Policy Act of 1992, the Secretary of Energy shall provide assistance to other agencies that acquire alternative fueled vehicles. This assistance includes payment of incremental costs of alternative fueled vehicles, including any incremental costs associated with

acquisition and disposal. All vehicles, whether conversions or purchases as original equipment manufacturer models, shall comply with all applicable Federal and State emissions and safety standards, consistent with those requirements placed on original equipment manufacturers, including years and mileage.

SECTION 4. Alternative Fueled Vehicle Purchase and Use Incentives.

The Administrator of the General Services Administration, to the extent allowed by law, may provide incentives to purchase alternative fueled vehicles, including priority processing of procurement requests, and, with the Secretary of Energy, provide any other technical or administrative assistance aimed at accelerating the purchase and use of Federal alternative fueled vehicles.

SECTION 5. Cooperation with Industry and State and Local Authorities on Alternative Fueled Vehicle Refueling Capabilities.

The Secretary of Energy shall coordinate Federal planning and siting efforts with private industry fuel suppliers, and with State and local governments, to ensure that adequate private sector refueling capabilities exist or will exist wherever Federal fleet alternative fueled vehicles are sited. Each agency's fleet managers are expected to work with appropriate organizations at their respective locations on initiatives to promote alternative fueled vehicle use.

SECTION 6 Reporting.

The head of each agency shall report annually to the Secretary of Energy on actions and progress under this order, consistent with guidance provided by the Secretary. The Secretary shall prepare a consolidated annual report to the President and to the Congress on the implementation of this order. As part of the report, the Secretary and the Director of the Office of Management and Budget shall complete a thorough, objective evaluation of alternative fueled vehicles. The evaluation shall consider operating and acquisition costs, fuel economy, maintenance, and other factors as appropriate.

SECTION 7. Definitions.

For the purpose of this order, the terms "agency" and "alternative fueled vehicle" have the same meanings given such terms in sections 151 and 301 of the Energy Policy Act of 1992, respectively.

SECTION 8. Exceptions.

The Secretary of Defense, the Secretary of the Treasury, and the Attorney General, consistent with the national security and protective and law enforcement activities of their respective agencies, shall determine the extent to which the requirements of this order apply to the national security and protective and law enforcement activities of their respective agencies.

SECTION 9. Judicial Review.

This order is not intended to create any right or benefit, substantive or procedural, enforceable by a non-Federal party against the United States, its officers or employees, or any other person.

William J. Clinton
THE WHITE HOUSE,
April 21, 1993

Executive Order 12856
FEDERAL COMPLIANCE WITH RIGHT-TO-KNOW LAWS AND
POLLUTION PREVENTION REQUIREMENTS

August 3, 1993

WHEREAS, the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001-11050) (EPCRA) established programs to provide the public with important information on the hazardous and toxic chemicals in their communities, and established emergency planning and notification requirements to protect the public in the event of a release of extremely hazardous substances;

WHEREAS, the Federal Government should be a good neighbor to local communities by becoming a leader in providing information to the public concerning toxic and hazardous chemicals and extremely hazardous substances at Federal facilities, and in planning for and preventing harm to the public through the planned or unplanned releases of chemicals;

WHEREAS, the Pollution Prevention Act of 1990 (42 U.S.C. 13101-13109) (PPA) established that it is the national policy of the United States that, whenever feasible, pollution should be prevented or reduced at the source; that pollution that cannot be prevented should be recycled in an environmentally safe manner; that pollution that cannot be prevented or recycled should be treated in an environmentally safe manner; and that disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner;

WHEREAS, the PPA required the Administrator of the Environmental Protection Agency (EPA) to promote source reduction practices in other agencies;

WHEREAS, the Federal Government should become a leader in the field of pollution prevention through the management of its facilities, its acquisition practices, and in supporting the development of innovative pollution prevention programs and technologies;

WHEREAS, the environmental, energy, and economic benefits of energy and water use reductions are very significant; the scope of innovative pollution prevention programs must be broad to adequately address the highest-risk environmental problems and to take full advantage of technological opportunities in sectors other than industrial manufacturing; the Energy Policy Act of 1992 (Public Law 102-486 of October 24, 1992) requires the Secretary of Energy to work with other Federal agencies to significantly reduce the use of energy and reduce the related environmental impacts by promoting use of energy efficiency and renewable energy technologies; and

WHEREAS, as the largest single consumer in the Nation, the Federal Government has the opportunity to realize significant economic as well as environmental benefits of pollution prevention;

AND IN ORDER TO:

Ensure that all Federal agencies conduct their facility management and acquisition activities so that, to the maximum extent practicable, the quantity of toxic chemicals entering any waste stream, including any releases to the environment, is reduced as expeditiously as possible through source reduction; that waste that is generated is recycled to the maximum extent practicable; and that any wastes remaining are stored, treated or disposed of in a manner protective of public health and the environment;

Require Federal agencies to report in a public manner toxic chemicals entering any wastestream from their facilities, including any releases to the environment, and to improve local emergency planning, response, and accident notification; and help encourage markets for clean technologies and safe alternatives to extremely hazardous substances or toxic chemicals through revisions to specifications and standards, the acquisition and procurement process, and the testing of innovative pollution prevention technologies at Federal facilities or in acquisitions;

NOW THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the EPCRA, the PPA, and section 301 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. Applicability.

1-101. As delineated below, the head of each Federal agency is responsible for ensuring that all necessary actions are taken for the prevention of pollution with respect to that agency's activities and facilities, and for ensuring that agency's compliance with pollution prevention and emergency planning and community right-to-know provisions established pursuant to all implementing regulations issued pursuant to EPCRA and PPA.

1-102. Except as otherwise noted, this order is applicable to all Federal agencies that either own or operate a "facility" as that term is defined in section 329(4) of EPCRA, if such facility meets the threshold requirements set forth in EPCRA for compliance as modified by section 3-304(b) of this order ("covered facilities"). Except as provided in section 1-103 and section 1-104 below, each Federal agency must apply all of the provisions of this order to each of its covered facilities, including those facilities which are subject, independent of this order, to the provisions of EPCRA and PPA (e.g., certain Government-owned/contractor-operated facilities (GOCO's), for chemicals meeting EPCRA thresholds). This order does not apply to Federal agency facilities outside the customs territory of the United States, such as United States diplomatic and consular missions abroad.

1-103. Nothing in this order alters the obligations which GOCO's and Government corporation facilities have under EPCRA and PPA independent of this order or subjects such facilities to EPCRA or PPA if they are otherwise excluded. However, consistent with section 1-104 below, each Federal agency shall include the releases and transfers from all such facilities when meeting all of the Federal agency's responsibilities under this order.

1-104. To facilitate compliance with this order, each Federal agency shall provide, in all future contracts between the agency and its relevant contractors, for the contractor to supply to the Federal agency all information the Federal agency deems necessary for it to comply with this order. In addition, to the extent that compliance with this order is made more difficult due to lack of information from existing contractors, Federal agencies shall take practical steps to obtain the information needed to comply with this order from such contractors.

SECTION 2-2. Definitions.

2-201. All definitions found in EPCRA and PPA and implementing regulations are incorporated in this order by reference, with the following exception: for the purposes of this order, the term "person", as defined in section 329(7) of EPCRA, also includes Federal agencies.

2-202. Federal agency means an Executive agency, as defined in 5 U.S.C. 105. For the purpose of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2-203. Pollution Prevention means "source reduction," as defined in the PPA, and other practices that reduce or eliminate the creation of pollutants through:

- (a) increased efficiency in the use of raw materials, energy, water, or other resources; or
- (b) protection of natural resources by conservation.

2-204. GOCO means a Government-owned/contractor-operated facility which is owned by the Federal Government but all or portions of which are operated by private contractors.

2-205. Administrator means the Administrator of the EPA.

2-206. Toxic Chemical means a substance on the list described in section 313(c) of EPCRA.

2-207. Toxic Pollutants. For the purposes of section 3-302(a) of this order, the term "toxic pollutants" shall include, but is not necessarily limited to, those chemicals at a Federal facility subject to the provisions of section 313 of EPCRA as of December 1, 1993. Federal agencies also may choose to include releases and transfers of other chemicals, such as "extremely hazardous chemicals" as defined in section 329(3) of EPCRA, hazardous wastes as defined under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901-6986) (RCRA), or hazardous air pollutants under the Clean Air Act Amendments (42 U.S.C. 7403-7626); however, for the purposes of establishing the agency's baseline under 3-302(c), such "other chemicals" are in addition to (not instead of) the section 313 chemicals. The term "toxic pollutants" does not include hazardous waste subject to remedial action generated prior to the date of this order.

SECTION 3-3. Implementation.

3-301. Federal Agency Strategy. Within 12 months of the date of this order, the head of each Federal agency must develop a written pollution prevention strategy to achieve the requirements specified in sections 3-302 through 3-305 of this order for that agency. A copy thereof shall be provided to the Administrator. Federal agencies are encouraged to involve the public in developing the required strategies under this order and in monitoring their subsequent progress in meeting the requirements of this order. The strategy shall include, but shall not be limited to, the following elements:

- (a) A pollution prevention policy statement, developed by each Federal agency, designating principal responsibilities for development, implementation, and evaluation of the strategy. The statement shall reflect the Federal agency's commitment to incorporate pollution prevention through source reduction in facility management and acquisition, and it shall identify an individual responsible for coordinating the Federal agency's efforts in this area.
- (b) A commitment to utilize pollution prevention through source reduction, where practicable, as the primary means of achieving and maintaining compliance with all applicable Federal, State, and local environmental requirements.

3-302. Toxic Chemical Reduction Goals.

(a) The head of each Federal agency subject to this order shall ensure that the agency develops voluntary goals to reduce the agency's total releases of toxic chemicals to the environment and off-site transfers of such toxic chemicals for treatment and disposal from facilities covered by this order by 50 percent by December 31, 1999. To the maximum extent practicable, such reductions shall be achieved by implementation of source reduction practices.

(b) The baseline for measuring reductions for purposes of achieving the 50 percent reduction goal for each Federal agency shall be the first year in which releases of toxic chemicals to the environment and off-site transfers of such chemicals for treatment and disposal are publicly reported. The baseline amount as to which the 50 percent reduction goal applies shall be the aggregate amount of toxic chemicals reported in the baseline year for all of that Federal agency's facilities meeting the threshold applicability requirements set forth in section 1-102 of this order. In no event shall the baseline be later than the 1994 reporting year.

(c) Alternatively, a Federal agency may choose to achieve a 50 percent reduction goal for toxic pollutants. In such event, the Federal agency shall delineate the scope of its reduction program in the written pollution prevention strategy that is required by section 3-301 of this order. The baseline for measuring reductions for purposes of achieving the 50 percent reduction requirement for each Federal agency shall be the first year in which releases of toxic pollutants to the environment and off-site transfers of such chemicals for treatment and disposal are publicly reported for each of that Federal agency's facilities encompassed by section 3-301. In no event shall the baseline year be later than the 1994 reporting year. The baseline amount as to which the 50 percent reduction goal applies shall be the aggregate amount of toxic pollutants reported by the agency in the baseline year. For any toxic pollutants included by the agency in determining its baseline under this section, in addition to toxic chemicals under EPCRA, the agency shall report on such toxic pollutants annually under the provisions of section 3-304 of this order, if practicable, or through an agency report that is made available to the public.

(d) The head of each Federal agency shall ensure that each of its covered facilities develops a written pollution prevention plan no later than the end of 1995, which sets forth the facility's contribution to the goal established in section 3-302(a) of this order. Federal agencies shall conduct assessments of their facilities as necessary to ensure development of such plans and of the facilities' pollution prevention programs.

3-303. Acquisition and Procurement Goals.

(a) Each Federal agency shall establish a plan and goals for eliminating or reducing the unnecessary acquisition by that agency of products containing extremely hazardous substances or toxic chemicals. Similarly, each Federal agency shall establish a plan and goal for voluntarily reducing its own manufacturing, processing, and use of extremely hazardous substances and toxic chemicals. Priorities shall be developed by Federal agencies, in coordination with EPA, for

implementing this section.

(b) Within 24 months of the date of this order, the Department of Defense (DOD) and the General Services Administration (GSA), and other agencies, as appropriate, shall review their agency's standardized documents, including specifications and standards, and identify opportunities to eliminate or reduce the use by their agency of extremely hazardous substances and toxic chemicals, consistent with the safety and reliability requirements of their agency mission. The EPA shall assist agencies in meeting the requirements of this section, including identifying substitutes and setting priorities for these reviews. By 1999, DOD, GSA and other affected agencies shall make all appropriate revisions to these specifications and standards.

(c) Any revisions to the Federal Acquisition Regulation (FAR) necessary to implement this order shall be made within 24 months of the date of this order.

(d) Federal agencies are encouraged to develop and test innovative pollution prevention technologies at their facilities in order to encourage the development of strong markets for such technologies. Partnerships should be encouraged between industry, Federal agencies, Government laboratories, academia, and others to assess and deploy innovative environmental technologies for domestic use and for markets abroad.

3-304. Toxics Release Inventory/Pollution Prevention Act Reporting.

(a) The head of each Federal agency shall comply with the provisions set forth in section 313 of EPCRA, section 6607 of PPA, all implementing regulations, and future amendments to these authorities, in light of applicable guidance as provided by EPA.

(b) The head of each Federal agency shall comply with these provisions without regard to the Standard Industrial Classification (SIC) delineations that apply to the Federal agency's facilities, and such reports shall be for all releases, transfers, and wastes at such Federal agency's facility without regard to the SIC code of the activity leading to the release, transfer, or waste. All other existing statutory or regulatory limitations or exemptions on the application of EPCRA section 313 shall apply to the reporting requirements set forth in section 3-304(a) of this order.

(c) The first year of compliance shall be no later than for the 1994 calendar year, with reports due on or before July 1, 1995.

3-305. Emergency Planning and Community Right-to-Know Reporting Responsibilities. The head of each Federal agency shall comply with the provisions set forth in sections 301 through 312 of EPCRA, all implementing regulations, and future amendments to these authorities, in light of any applicable guidance as provided by EPA. Effective dates for compliance shall be:

(a) With respect to the provisions of section 302 of EPCRA, emergency planning notification shall be made no later than 7 months after the date of this order.

(b) With respect to the provisions of section 303 of EPCRA, all information

necessary for the applicable Local Emergency Planning Committee (LEPC's) to prepare or revise local Emergency Response Plans shall be provided no later than 1 year after the date of this order.

(c) To the extent that a facility is required to maintain Material Safety Data Sheets under any provisions of law or Executive order, information required under section 311 of EPCRA shall be submitted no later than 1 year after the date of this order, and the first year of compliance with section 312 shall be no later than the 1994 calendar year, with reports due on or before March 1, 1995.

(d) The provisions of section 304 of EPCRA shall be effective beginning January 1, 1994.

(e) These compliance dates are not intended to delay implementation of earlier timetables already agreed to by Federal agencies and are inapplicable to the extent they interfere with those timetables.

SECTION. 4-4. Agency Coordination.

4-401. By February 1, 1994, the Administrator shall convene an Interagency Task Force composed of the Administrator, the Secretaries of Commerce, Defense, and Energy, the Administrator of General Services, the Administrator of the Office of Procurement Policy in the Office of Management and Budget, and such other agency officials as deemed appropriate based upon lists of potential participants submitted to the Administrator pursuant to this section by the agency head. Each agency head may designate other senior agency officials to act in his/her stead, where appropriate. The Task Force will assist the agency heads in the implementation of the activities required under this order.

4-402. Federal agencies subject to the requirements of this order shall submit annual progress reports to the Administrator beginning on October 1, 1995. These reports shall include a description of the progress that the agency has made in complying with all aspects of this order, including the pollution reductions requirements. This reporting requirement shall expire after the report due on October 1, 2001.

4-403. Technical Advice. Upon request and to the extent practicable, the Administrator shall provide technical advice and assistance to Federal agencies in order to foster full compliance with this order. In addition, to the extent practicable, all Federal agencies subject to this order shall provide technical assistance, if requested, to LEPC's in their development of emergency response plans and in fulfillment of their community right-to-know and risk reduction responsibilities.

4-404. Federal agencies shall place high priority on obtaining funding and resources needed for implementing all aspects of this order, including the pollution prevention strategies, plans, and assessments required by this order, by identifying, requesting, and allocating funds through line-item or direct funding requests. Federal agencies shall make such requests as required in the Federal Agency Pollution Prevention and Abatement Planning Process and through agency budget requests as outlined in Office of Management and Budget (OMB) Circulars A-106 and A-11, respectively. Federal agencies should apply, to the maximum extent practicable, a life cycle analysis and total cost accounting principles to all projects needed to meet the requirements of this order.

4-405. Federal Government Environmental Challenge Program. The Administrator shall establish a "Federal Government Environmental Challenge Program" to recognize outstanding environmental management performance in Federal agencies and facilities. The program shall consist of two components that challenge Federal agencies; (a) to agree to a code of environmental principles to be developed by EPA, in cooperation with other agencies, that emphasizes pollution prevention, sustainable development and state-of-the-art environmental management programs, and (b) to submit applications to EPA for individual Federal agency facilities for recognition as "Model Installations." The program shall also include a means for recognizing individual Federal employees who demonstrate outstanding leadership in pollution prevention.

SECTION 5-5. Compliance.

5-501. By December 31, 1993, the head of each Federal agency shall provide the Administrator with a preliminary list of facilities that potentially meet the requirements for reporting under the threshold provisions of EPCRA, PPA, and this order.

5-502. The head of each Federal agency is responsible for ensuring that such agency take all necessary actions to prevent pollution in accordance with this order, and for that agency's compliance with the provisions of EPCRA and PPA. Compliance with EPCRA and PPA means compliance with the same substantive, procedural, and other statutory and regulatory requirements that would apply to a private person. Nothing in this order shall be construed as making the provisions of sections 325 and 326 of EPCRA applicable to any Federal agency or facility, except to the extent that such Federal agency or facility would independently be subject to such provisions. EPA shall consult with Federal agencies, if requested, to determine the applicability of this order to particular agency facilities.

5-503. Each Federal agency subject to this order shall conduct internal reviews and audits, and take such other steps, as may be necessary to monitor compliance with sections 3-304 and 3-305 of this order.

5-504. The Administrator, in consultation with the heads of Federal agencies, may conduct such reviews and inspections as may be necessary to monitor compliance with sections 3-304 and 3-305 of this order. Except as excluded under section 6-601 of this order, all Federal agencies are encouraged to cooperate fully with the efforts of the Administrator to ensure compliance with sections 3-304 and 3-305 of this order.

5-505. Federal agencies are further encouraged to comply with all state and local right-to-know and pollution prevention requirements to the extent that compliance with such laws and requirements is not otherwise already mandated.

5-506. Whenever the Administrator notifies a Federal agency that it is not in compliance with an applicable provision of this order, the Federal agency shall achieve compliance as promptly as is practicable.

5-507. The EPA shall report annually to the President on Federal agency compliance with the provisions of section 3-304 of this order.

5-508. To the extent permitted by law and unless such documentation is withheld pursuant to section

6-601 of this order, the public shall be afforded ready access to all strategies, plans, and reports required to be prepared by Federal agencies under this order by the agency preparing the strategy, plan, or report. When the reports are submitted to EPA, EPA shall compile the strategies, plans, and reports and make them publicly available as well. Federal agencies are encouraged to provide such strategies, plans, and reports to the State and local authorities where their facilities are located for an additional point of access to the public.

SECTION. 6-6. Exemption.

6-601. In the interest of national security, the head of a Federal agency may request from the President an exemption from complying with the provisions of any or all aspects of this order for particular Federal agency facilities, provided that the procedures set forth in section 120(j)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9620(j)(1)), are followed. To the maximum extent practicable, and without compromising national security, all Federal agencies shall strive to comply with the purposes, goals, and implementation steps set forth in this order.

SECTION 7-7. General Provisions.

7-701. Nothing in this order shall create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

William J. Clinton
THE WHITE HOUSE,
August 3, 1993.
Exec. Order No. 12856, 58 FR 41981, 1993 WL 292835 (Pres.)

Executive Order 12873
FEDERAL ACQUISITION, RECYCLING, AND WASTE PREVENTION

October 20, 1993

WHEREAS, the Nation's interest is served when the Federal Government can make more efficient use of natural resources by maximizing recycling and preventing waste wherever possible;

WHEREAS, this Administration is determined to strengthen the role of the Federal Government as an enlightened, environmentally conscious and concerned consumer;

WHEREAS, the Federal Government should--through cost-effective waste prevention and recycling activities--work to conserve disposal capacity, and serve as a model in this regard for private and other public institutions; and

WHEREAS, the use of recycled and environmentally preferable products and services by the Federal Government can spur private sector development of new technologies and use of such products, thereby creating business and employment opportunities and enhancing regional and local economies and the national economy;

NOW, THEREFORE, I, WILLIAM J. CLINTON, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Solid Waste Disposal Act, Public Law 89-272, 79 Stat. 997, as amended by the Resource Conservation and Recovery Act ("RCRA"), Public Law 94-580, 90 Stat. 2795 as amended (42 USC 6901-6907), and section 301 of title 3, United States Code, hereby order as follows:

PART 1--PREAMBLE

Section 101. Consistent with the demands of efficiency and cost effectiveness, the head of each Executive agency shall incorporate waste prevention and recycling in the agency's daily operations and work to increase and expand markets for recovered materials through greater Federal Government preference and demand for such products.

Sec. 102. Consistent with policies established by Office of Federal Procurement Policy ("OFPP") Policy Letter 92-4, agencies shall comply with executive branch policies for the acquisition and use of environmentally preferable products and services and implement cost-effective procurement preference programs favoring the purchase of these products and services.

Sec. 103. This order creates a Federal Environmental Executive and establishes high-level Environmental Executive positions within each agency to be responsible for expediting the implementation of this order and statutes that pertain to this order.

PART 2--DEFINITIONS

For purposes of this order:

Sec. 201. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging,

distribution, reuse, operation, maintenance, or disposal of the product or service.

Sec. 202. "Executive agency" or "agency" means an Executive agency as defined in 5 U.S.C. 105. For the purpose of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

Sec. 203. "Post consumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. "Post consumer material" is a part of the broader category of "recovered material".

Sec. 204. "Acquisition" means the acquiring by contract with appropriated funds for supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration and those technical and management functions directly related to the process of fulfilling agency needs by contract.

Sec. 205. "Recovered materials" means waste materials and by-products which have been recovered or diverted from solid waste, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (42 U.S.C. 6903(19)).

Sec. 206. "Recyclability" means the ability of a product or material to be recovered from, or otherwise diverted from, the solid waste stream for the purpose of recycling.

Sec. 207. "Recycling" means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion.

Sec. 208. "Waste prevention," also known as "source reduction," means any change in the design, manufacturing, purchase or use of materials or products (including packaging) to reduce their amount or toxicity before they become municipal solid waste. Waste prevention also refers to the reuse of products or materials.

Sec. 209. "Waste reduction" means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

Sec. 210. "Life Cycle Cost" means the amortized annual cost of a product, including capital costs, installation costs, operating costs, maintenance costs and disposal costs discounted over the lifetime of the product.

Sec. 211. "Life Cycle Analysis" means the comprehensive examination of a product's environmental and economic effects throughout its lifetime including new material extraction, transportation, manufacturing, use, and disposal.

PART 3--THE ROLE OF THE FEDERAL ENVIRONMENTAL EXECUTIVE AND AGENCY ENVIRONMENTAL EXECUTIVES

Sec. 301. Federal Environmental Executive. (a) A Federal Environmental Executive shall be designated by the President and shall be located within the Environmental Protection Agency ("EPA"). The Federal Environmental Executive shall take all actions necessary to ensure that the agencies comply with the requirements of this order and shall generate an annual report to the Office of Management and Budget ("OMB"), at the time of agency budget submissions, on the actions taken by the agencies to comply with the requirements of this order. In carrying out his or her functions, the Federal Environmental Executive shall consult with the Director of the White House Office on Environmental Policy.

(b) Staffing. A minimum of four (4) full time staff persons are to be provided by the agencies listed below to assist the Federal Environmental Executive, one of whom shall have experience in specification review and program requirements, one of whom shall have experience in procurement practices, and one of whom shall have experience in solid waste prevention and recycling. These four staff persons shall be appointed and replaced as follows:

(1) a representative from the Department of Defense shall be detailed for not less than one year and no more than two years;

(2) a representative from the General Services Administration ("GSA") shall be detailed for not less than one year and no more than two years;

(3) a representative from EPA shall be detailed for not less than one year and no more than two years; and

(4) a representative from one other agency determined by the Federal Environmental Executive shall be detailed on a rotational basis for not more than one year.

(c) Administration. Agencies are requested to make their services, personnel and facilities available to the Federal Environmental executive to the maximum extent practicable for the performance of functions under this order.

(d) Committees and Work Groups. The Federal Environmental Executive shall establish committees and work groups to identify, assess, and recommend actions to be taken to fulfill the goals, responsibilities, and initiatives of the Federal Environmental Executive. As these committees and work groups are created, agencies are requested to designate appropriate personnel in the areas of procurement and acquisition, standards and specifications, electronic commerce, facilities management, waste prevention, and recycling, and others as needed to staff and work on the initiatives of the Executive.

(e) Duties. The Federal Environmental Executive, in consultation with the Agency Environmental Executives, shall:

(1) identify and recommend initiatives for government-wide implementation that will promote the purposes of this order, including:

(A) the development of a federal plan for agency implementation of this order and appropriate incentives to encourage the acquisition of recycled and environmentally preferable products by the Federal Government;

(B) the development of a federal implementation plan and guidance for instituting economically efficient federal waste prevention, energy and water efficiency programs, and recycling programs within each agency; and

(C) the development of a plan for making maximum use of available funding assistance programs;

(2) collect and disseminate information electronically concerning methods to reduce waste, materials that can be recycled, costs and savings associated with waste prevention and recycling, and current market sources of products that are environmentally preferable or produced with recovered materials;

(3) provide guidance and assistance to the agencies in setting up and reporting on agency programs and monitoring their effectiveness; and

(4) coordinate appropriate government-wide education and training programs for agencies.

Sec. 302. Agency Environmental Executives.

Within 90 days after the effective date of this order, the head of each Executive department and major procuring agency shall designate an Agency Environmental Executive from among his or her staff, who serves at a level no lower than at the Deputy Assistant Secretary level or equivalent. The Agency Environmental Executive will be responsible for:

(a) coordinating all environmental programs in the areas of procurement and acquisition, standards and specification review, facilities management, waste prevention and recycling, and logistics;

(b) participating in the interagency development of a Federal plan to:

(1) create an awareness and outreach program for the private sector to facilitate markets for environmentally preferable and recycled products and services, promote new technologies, improve awareness about federal efforts in this area, and expedite agency efforts to procure new products identified under this order;

(2) establish incentives, provide guidance and coordinate appropriate educational programs for agency employees; and

(3) coordinate the development of standard agency reports required by this order;

(c) reviewing agency programs and acquisitions to ensure compliance with this order.

PART 4--ACQUISITION PLANNING AND AFFIRMATIVE PROCUREMENT PROGRAMS

Sec. 401. Acquisition Planning.

In developing plans, drawings, work statements, specifications, or other product descriptions, agencies shall consider the following factors: elimination of virgin material requirements; use of recovered materials; reuse of product; life cycle cost; recyclability; use of environmentally preferable products; waste prevention (including toxicity reduction or elimination); and ultimate disposal, as appropriate. These factors should be considered in acquisition planning for all procurements and in the evaluation and award of contracts, as

appropriate. Program and acquisition managers should take an active role in these activities.

Sec. 402. Affirmative Procurement Programs.

The head of each Executive agency shall develop and implement affirmative procurement programs in accordance with RCRA section 6002 (42 USC 6962) and this order. Agencies shall ensure that responsibilities for preparation, implementation and monitoring of affirmative procurement programs are shared between the program personnel and procurement personnel. For the purposes of all purchases made pursuant to this order, EPA, in consultation with such other Federal agencies as appropriate, shall endeavor to maximize environmental benefits, consistent with price, performance and availability considerations, and shall adjust bid solicitation guidelines as necessary in order to accomplish this goal.

- (a) Agencies shall establish affirmative procurement programs for all designated EPA guideline items purchased by their agency. For newly designated items, agencies shall revise their internal programs within one year from the date EPA designated the new items.
- (b) For the currently designated EPA guideline items, which are: (I) concrete and cement containing fly ash; (ii) recycled paper products; (iii) re-refined lubricating oil; (iv) retread tires; and (v) insulation containing recovered materials; and for all future guideline items, agencies shall ensure that their affirmative procurement programs require that 100 percent of their purchases of products meet or exceed the EPA guideline standards unless written justification is provided that a product is not available competitively within a reasonable time frame, does not meet appropriate performance standards, or is only available at an unreasonable price.
- (c) The Agency Environmental Executives will track agencies' purchases of designated EPA guideline items and report agencies' purchases of such guideline items to the Federal Environmental Executive. Agency Environmental Executives will be required to justify to the Federal Environmental Executive as to why the item(s) have not been purchased or submit a plan for how the agencies intend to increase their purchases of the designated item(s).
- (d) Agency affirmative procurement programs, to the maximum extent practicable, shall encourage that:
 - (1) documents be transferred electronically,
 - (2) all government documents printed internally be printed double-sided, and
 - (3) contracts, grants, and cooperative agreements issued after the effective date of this order include provisions that require documents to be printed double-sided on recycled paper meeting or exceeding the standards established in this order or in future EPA guidelines.

Sec. 403. Procurement of Existing Guideline Items.

Within 90 days after the effective date of this order, the head of each Executive agency that has not implemented an affirmative procurement program shall ensure that the affirmative procurement program has been established and is being implemented to the maximum extent practicable.

Sec. 404. Electronic Acquisition System.

To reduce waste by eliminating unnecessary paper transactions in the acquisition process and to foster accurate data collection and reporting of agencies' purchases of recycled content and environmentally preferred products, the executive branch will implement an electronic commerce system consistent with the

recommendations adopted as a result of the National Performance Review.

PART 5--STANDARDS, SPECIFICATIONS AND DESIGNATION OF ITEMS

Sec. 501. Specifications, Product Descriptions and Standards. Where applicable, Executive agencies shall review and revise federal and military specifications, product descriptions and standards to enhance Federal procurement of products made from recovered materials or that are environmentally preferable. When converting to a Commercial Item Description (CID), agencies shall ensure that environmental factors have been considered and that the CID meets or exceeds the environmentally preferable criteria of the government specification or product description. Agencies shall report annually on their compliance with this section to the Federal Environmental Executive for incorporation into the annual report to OMB referred to in section 301 of this order.

(a) If an inconsistency with RCRA Section 6002 or this order is identified in a specification, standard, or product description, the Federal Environmental Executive shall request that the Environmental Executive of the pertinent agency advise the Federal Environmental executive as to why the specification cannot be revised or submit a plan for revising it within 60 days.

(b) If an agency is able to revise an inconsistent specification but cannot do so within 60 days, it is the responsibility of that agency's Environmental Executive to monitor and implement the plan for revising it.

Sec. 502. Designation of Items that Contain Recovered Materials.

In order to expedite the process of designating items that are or can be made with recovered materials, EPA shall institute a new process for designating these items in accordance with RCRA section 6002(e) as follows. (a) EPA shall issue a Comprehensive Procurement Guideline containing designated items that are or can be made with recovered materials.

(1) The proposed guideline shall be published for public comment in the Federal Register within 180 days after the effective date of this order and shall be updated annually after publication for comment to include additional items.

(2) Once items containing recovered materials have been designated by EPA through the new process established pursuant to this section and in compliance with RCRA section 6002, agencies shall modify their affirmative procurement programs to require that, to the maximum extent practicable, their purchases of products meet or exceed the EPA guideline standards unless written justification is provided that a product is not available competitively, not available within a reasonable time frame, does not meet appropriate performance standards, or is only available at an unreasonable price.

(b) Concurrent with the issuance of the Comprehensive Procurement Guideline required by section 502(a) of this order, EPA shall publish for public comment in the Federal Register Recovered Material Advisory Notice(s) that present the range of recovered material content levels within which the designated recycled items are currently available. These levels shall be updated periodically after publication for comment to reflect changes in market conditions.

Sec. 503. Guidance for Environmentally Preferable Products.

In accordance with this order, EPA shall issue guidance that recommends principles that Executive agencies

should use in making determinations for the preference and purchase of environmentally preferable products.

(a) Proposed guidance shall be published for public comment in the Federal Register within 180 days after the effective date of this order, and may be updated after public comment, as necessary, thereafter. To the extent necessary, EPA may issue additional guidance for public comment on how the principles can be applied to specific product categories.

(b) Once final guidance for environmentally preferable products has been issued by EPA, Executive agencies shall use these principles, to the maximum extent practicable, in identifying and purchasing environmentally preferable products and shall modify their procurement programs by reviewing and revising specifications, solicitation procedures, and policies as appropriate.

Sec. 504. Minimum Content Standard for Printing and Writing Paper.

Executive agency heads shall ensure that agencies shall meet or exceed the following minimum materials content standards when purchasing or causing the purchase of printing and writing paper:

(a) For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, and white woven envelopes, the minimum content standard shall be no less than 20 percent Post consumer materials beginning December 31, 1994. This minimum content standard shall be increased to 30 percent beginning on December 31, 1998.

(b) For other uncoated printing and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock, the minimum content standard shall be 50 percent recovered materials, including 20 percent Post consumer materials beginning on December 31, 1994. This standard shall be increased to 30 percent beginning on December 31, 1998.

(c) As an alternative to meeting the standards in sections 504(a) and (b), for all printing and writing papers, the minimum content standard shall be no less than 50 percent recovered materials that are a waste material byproduct of a finished product other than a paper or textile product which would otherwise be disposed of in a landfill, as determined by the State in which the facility is located.

(1) The decision not to procure recycled content printing and writing paper meeting the standards specified in this section shall be based solely on a determination by the contracting officer that a satisfactory level of competition does not exist, that the items are not available within a reasonable time period, or that the available items fail to meet reasonable performance standards established by the agency or are only available at an unreasonable price.

(2) Each agency should implement waste prevention techniques, as specified in section 402(d) of this order, so that total annual expenditures for recycled content printing and writing paper do not exceed current annual budgets for paper products as measured by average annual expenditures, adjusted for inflation based on the Consumer Price Index or other suitable indices. In determining a target budget for printing and writing paper, agencies may take into account such factors as employee increases or decreases, new agency or statutory initiatives, and episodic or unique requirements (e.g., census).

(3) Effective immediately, all agencies making solicitations for the purchase of printing and

writing paper shall seek bids for paper with Post consumer material or recovered waste material as described in section 504(c).

Sec. 505. Revision of Brightness Specifications and Standards.

The General Services Administration and other Federal agencies are directed to identify, evaluate and revise or eliminate any standards or specifications unrelated to performance that present barriers to the purchase of paper or paper products made by production processes that minimize emissions of harmful byproducts. This evaluation shall include a review of unnecessary brightness and stock clause provisions, such as lignin content and chemical pulp requirements. The GSA shall complete the review and revision of such specifications within six months after the effective date of this order, and shall consult closely with the Joint Committee on Printing during such process. The GSA shall also compile any information or market studies that may be necessary to accomplish the objectives of this provision.

Sec. 506. Procurement of Re-refined Lubricating Oil and Retread Tires.

Within 180 days after the effective date of this order, agencies shall implement the EPA procurement guidelines for re-refined lubricating oil and retread tires.

(a) Commodity managers shall finalize revisions to specifications for re-refined oil and retread tires, and develop and issue specifications for tire retreading services, as commodity managers shall take affirmative steps to procure these items in accordance with RCRA section 6002.

(b) Once these items become available, fleet managers shall take affirmative steps to procure these items in accordance with RCRA section 6002.

Sec. 507. Product Testing.

The Secretary of Commerce, through the National Institute of Standards and Technology ("NIST"), shall establish a program for testing the performance of products containing recovered materials or deemed to be environmentally preferable. NIST shall work with EPA, GSA and other public and private sector organizations that conduct appropriate life cycle analyses to gather information that will assist agencies in making selections of products and services that are environmentally preferable.

(a) NIST shall publish appropriate reports describing testing programs, their results, and recommendations for testing methods and related specifications for use by Executive agencies and other interested parties.

(b) NIST shall coordinate with other Executive and State agencies to avoid duplication with existing testing programs.

PART 6--AGENCY GOALS AND REPORTING REQUIREMENTS

Sec. 601. Goals for Waste Reduction.

Each agency shall establish a goal for solid waste prevention and a goal for recycling to be achieved by the year 1995. These goals shall be submitted to the Federal Environmental Executive within 180 days after the effective date of this order. Progress on attaining these goals shall be reported by the agencies to the Federal Environmental Executive for the annual report specified in section 301 of this order.

Sec. 602. Goal for Increasing the Procurement of Recycled and Other Environmentally Preferable Products.

Agencies shall strive to increase the procurement of products that are environmentally preferable or that are made with recovered materials and set annual goals to maximize the number of recycled products purchased, relative to non-recycled alternatives.

Sec. 603. Review of Implementation.

The President's Council on Integrity and Efficiency ("PCIE") will request that the Inspectors General periodically review agencies' affirmative procurement programs and reporting procedures to ensure their compliance with this order.

PART 7--APPLICABILITY AND OTHER REQUIREMENTS

Sec. 701. Contractor Operated Facilities.

Contracts that provide for contractor operation of a government-owned or leased facility, awarded after the effective date of this order, shall include provisions that obligate the contractor to comply with the requirements of this order within the scope of its operations. In addition, to the extent permitted by law and where economically feasible, existing contracts should be modified.

Sec. 702. Real Property Acquisition and Management. Within 90 days after the effective date of this order, and to the extent permitted by law and where economically feasible, Executive agencies shall ensure compliance with the provisions of this order in the acquisition and management of federally owned and leased space. GSA and other Executive agencies shall also include environmental and recycling provisions in the acquisition of all leased space and in the construction of new federal buildings.

Sec. 703. Retention of Funds

Within 90 days after the effective date of this order, the Administrator of GSA shall develop a legislative proposal providing authority for Executive agencies to retain a share of the proceeds from the sale of materials recovered through recycling or waste prevention programs and specifying the eligibility requirements for the materials being recycled.

Sec. 704. Model Facility Programs.

Each Executive department and major procuring agency shall establish model facility demonstration programs that include comprehensive waste prevention and recycling programs and emphasize the procurement of recycled and environmentally preferable products and services using an electronic data interchange (EDI) system.

Sec. 705. Recycling Programs

Each Executive agency that has not already done so shall initiate a program to promote cost effective waste prevention and recycling of reusable materials in all of its facilities. The recycling programs implemented pursuant to this section must be compatible with applicable State and local recycling requirements. Federal agencies shall also consider cooperative ventures with State and local governments to promote recycling and waste reduction in the community.

PART 8--AWARENESS

Sec. 801. Agency Awards Program. A government-wide award will be presented annually by the White House to the best, most innovative program implementing the objectives of this order to give greater visibility to these efforts so that they can be incorporated government-wide.

Sec. 802. Internal Agency Awards Programs. Each agency shall develop an internal agency-wide awards program, as appropriate, to reward its most innovative environmental programs. Winners of agency-wide awards will be eligible for the White House award program.

PART 9--REVOCATION, LIMITATION AND IMPLEMENTATION

Sec. 901. Executive Order No. 12780, dated October 31, 1991, is hereby revoked.

Sec. 902. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any other person.

Sec. 903. The policies expressed in this order, including the requirements and elements for effective agency affirmative procurement programs, shall be implemented and incorporated in the Federal Acquisition Regulation (FAR) within 180 days after the effective date of this order. The implementation language shall consist of providing specific direction and guidance on agency programs for preference, promotion, estimation, certification, reviewing and monitoring.

Sec. 904. This order shall be effective immediately.

William J. Clinton
THE WHITE HOUSE
October 20, 1993.
58 FR 54911

Executive Order 12898
FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY
POPULATIONS AND LOW-INCOME POPULATIONS

February 11, 1994

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1-1. Implementation.

1-101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1-102. Creation of an Interagency Working Group on Environmental Justice.

(a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency ("Administrator") or the Administrator's designee shall convene an interagency Federal Working Group on Environmental Justice ("Working Group"). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations; (2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1-103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner; (3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department

of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3-3 of this order; (4) assist in coordinating data collection, required by this order; (5) examine existing data and studies on environmental justice; (6) hold public meetings as required in section 5-502(d) of this order; and (7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. Development of Agency Strategies.

(a) Except as provided in section 6- 605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1-104. Reports to the President.

Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

SECTION 2-2. Federal Agency Responsibilities for Federal Programs.

Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

SECTION. 3-3. Research, Data Collection, and Analysis.

3-301. Human Health and Environmental Research and Analysis.

- (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.
- (b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.
- (c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. Human Health and Environmental Data Collection and Analysis.

To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a):

- (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;
- (b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national

origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

SECTION 4-4. Subsistence Consumption of Fish and Wildlife.

4-401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

SECTION 5-5. Public Participation and Access to Information.

(a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

SECTION 6-6. General Provisions.

6-601. Responsibility for Agency Implementation. The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. Executive Order No. 12250. This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. Executive Order No. 12875. This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. Scope. For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. Petitions for Exemptions. The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. Native American Programs. Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. Costs. Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. General. Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order.

William J. Clinton
THE WHITE HOUSE,
February 11, 1994.
Exec. Order No. 12898, 59 FR 7629, 1994 WL 43891 (Pres.)

Executive Order 12948
AMENDMENT TO EXECUTIVE ORDER NO. 12898

January 30, 1995

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to amend Executive Order No. 12898, it is hereby ordered that section 1-103(e) of that order is amended by deleting the phrase "Within 12 months of the date of this order," and inserting the phrase "By March 24, 1995," in lieu thereof and by deleting, in the second sentence of section 1-103(e), the phrase "During the 12 month period from the date of this order," and inserting the phrase "From the date of this order through March 24, 1995," in lieu thereof.

William J. Clinton
THE WHITE HOUSE,
January 30, 1995.
Exec. Order No. 12948, 60 FR 6381, 1995 WL 35929 (Pres.)

Executive Order 12962
RECREATIONAL FISHERIES

June 7, 1995

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-d, and e- j), the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801-1882), and other pertinent statutes, and in order to conserve, restore, and enhance aquatic systems to provide for increased recreational fishing opportunities nationwide, it is ordered as follows:

SECTION 1. Federal Agency Duties.

Federal agencies shall, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities by:

- (a) developing and encouraging partnerships between governments and the private sector to advance aquatic resource conservation and enhance recreational fishing opportunities;
- (b) identifying recreational fishing opportunities that are limited by water quality and habitat degradation and promoting restoration to support viable, healthy, and, where feasible, self-sustaining recreational fisheries;
- (c) fostering sound aquatic conservation and restoration endeavors to benefit recreational fisheries;
- (d) providing access to and promoting awareness of opportunities for public participation and enjoyment of U.S. recreational fishery resources;
- (e) supporting outreach programs designed to stimulate angler participation in the conservation and restoration of aquatic systems;
- (f) implementing laws under their purview in a manner that will conserve, restore, and enhance aquatic systems that support recreational fisheries;
- (g) establishing cost-share programs, under existing authorities, that match or exceed Federal funds with nonfederal contributions;
- (h) evaluating the effects of Federally funded, permitted, or authorized actions on aquatic systems and recreational fisheries and document those effects relative to the purpose of this order; and
- (i) assisting private landowners to conserve and enhance aquatic resources on their lands.

SECTION. 2. National Recreational Fisheries Coordination Council.

A National Recreational Fisheries Coordination Council ("Coordination Council") is hereby established. The Coordination Council shall consist of seven members, one member designated by each of the following Secretaries--Interior, Commerce, Agriculture, Energy, Transportation, and Defense--and one by the Administrator of the Environmental Protection Agency.

The Coordination Council shall:

- (a) ensure that the social and economic values of healthy aquatic systems that support recreational fisheries are considered by Federal agencies in the course of their actions;
- (b) reduce duplicative and cost-inefficient programs among Federal agencies involved in conserving or managing recreational fisheries;
- (c) share the latest resource information and management technologies to assist in the conservation and management of recreational fisheries;
- (d) assess the implementation of the Conservation Plan required under section 3 of this order; and
- (e) develop a biennial report of accomplishments of the Conservation Plan.

The representatives designated by the Secretaries of Commerce and the Interior shall co-chair the Coordination Council.

SECTION. 3. Recreational Fishery Resources Conservation Plan.

- (a) Within 12 months of the date of this order, the Coordination Council, in cooperation with Federal agencies, States, and Tribes, and after consulting with the Federally chartered Sport Fishing and Boating Partnership Council, shall develop a comprehensive Recreational Fishery Resources Conservation Plan ("Conservation Plan").
- (b) The Conservation Plan will set forth a 5-year agenda for Federal agencies identified by the Coordination Council. In so doing, the Conservation Plan will establish, to the extent permitted by law and where practicable; (1) measurable objectives to conserve and restore aquatic systems that support viable and healthy recreational fishery resources, (2) actions to be taken by the identified Federal agencies, (3) a method of ensuring the accountability of such Federal agencies, and (4) a comprehensive mechanism to evaluate achievements. The Conservation Plan will, to the extent practicable, be integrated with existing plans and programs, reduce duplication, and will include recommended actions for cooperation with States, Tribes, conservation groups, and the recreational fisheries community.

SECTION. 4. Joint Policy for Administering the Endangered Species Act of 1973.

All Federal agencies will aggressively work to identify and minimize conflicts between recreational fisheries and their respective responsibilities under the Endangered Species Act of 1973 ("ESA") (16 U.S.C. 1531 et seq.). Within 6 months of the date of this order, the Fish and Wildlife Service and the National Marine Fisheries Service will promote compatibility and reduce conflicts between the administration of the ESA and recreational fisheries by developing a joint agency policy that will; (1) ensure consistency in the administration of the ESA between and within the two agencies, (2) promote collaboration with other Federal, State, and Tribal fisheries managers, and (3) improve and increase efforts to inform nonfederal entities of the requirements of the ESA.

SECTION 5. Sport Fishing and Boating Partnership Council.

To assist in the implementation of this order, the Secretary of the Interior shall expand the role of the Sport Fishing and Boating Partnership Council to:

- (a) monitor specific Federal activities affecting aquatic systems and the recreational fisheries they support;
- (b) review and evaluate the relation of Federal policies and activities to the status and conditions of recreational fishery resources; and
- (c) prepare an annual report of its activities, findings, and recommendations for submission to the Coordination Council.

SECTION 6. Judicial Review.

This order is intended only to improve the internal management of the executive branch and it is not intended to create any right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.

William J. Clinton
THE WHITE HOUSE,
June 7, 1995.

Exec. Order No. 12962, 60 FR 30769, 1995 WL 341522 (Pres.)

Executive Order 13007
INDIAN SACRED SITES

May 24, 1996

By the authority vested in me as President by the Constitution and the laws of the United States, in furtherance of Federal treaties, and in order to protect and preserve Indian religious practices, it is hereby ordered:

SECTION 1. Accommodation of Sacred Sites.

(a) In managing Federal lands, each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites.

(b) For purposes of this order:

(i) "Federal lands" means any land or interests in land owned by the United States, including leasehold interests held by the United States, except Indian trust lands;

(ii) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law No. 103-454, 108 Stat. 4791, and "Indian" refers to a member of such an Indian tribe; and

(iii) "Sacred site" means any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.

SECTION 2. Procedures.

(a) Each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, as appropriate, promptly implement procedures for the purposes of carrying out the provisions of section 1 of this order, including, where practicable and appropriate, procedures to ensure reasonable notice is provided of proposed actions or land management policies that may restrict future access to or ceremonial use of, or adversely affect the physical integrity of, sacred sites. In all actions pursuant to this section, agencies shall comply with the Executive memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments."

(b) Within 1 year of the effective date of this order, the head of each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall report to the President, through the Assistant to the President for Domestic Policy, on the implementation of this

order. Such reports shall address, among other things, (i) any changes necessary to accommodate access to and ceremonial use of Indian sacred sites; (ii) any changes necessary to avoid adversely affecting the physical integrity of Indian sacred sites; and (iii) procedures implemented or proposed to facilitate consultation with appropriate Indian tribes and religious leaders and the expeditious resolution of disputes relating to agency action on Federal lands that may adversely affect access to, ceremonial use of, or the physical integrity of sacred sites.

SECTION 3. Nothing in this order shall be construed to require a taking of vested property interests. Nor shall this order be construed to impair enforceable rights to use of Federal lands that have been granted to third parties through final agency action. For purposes of this order, "agency action" has the same meaning as in the Administrative Procedure Act (5 U.S.C. 551(13)).

SECTION 4. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any party against the United States, its agencies, officers, or any person.

WILLIAM J. CLINTON
THE WHITE HOUSE,
May 24, 1996
Exec. Order No. 13007, 61 FR 26771, 1996 WL 285380 (Pres.)